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# **Code**

# **Supplement**

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# **INSTRUCTIONS**

## **FOR UPDATING THE**

### **IOWA ADMINISTRATIVE CODE**

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

#### **Credit Union Division[189]**

Replace Analysis  
Replace Chapter 18

#### **Iowa Finance Authority[265]**

Replace Chapter 27  
Replace Chapter 39

#### **Human Services Department[441]**

Replace Chapter 156  
Replace Chapter 158

#### **Public Health Department[641]**

Replace Analysis  
Replace Chapter 55  
Replace Chapter 77  
Replace Chapter 78 with Reserved Chapter 78  
Replace Chapter 82  
Replace Chapter 155

#### **Professional Licensure Division[645]**

Replace Chapter 4

#### **Pharmacy Board[657]**

Replace Analysis  
Replace Chapters 2 to 5  
Replace Chapter 11  
Replace Reserved Chapters 38 to 99 with Reserved Chapters 38 and 39  
Insert Chapter 40 and Reserved Chapters 41 to 99

#### **Public Safety Department[661]**

Replace Chapter 201  
Replace Chapter 301

#### **Secretary of State[721]**

Replace Chapter 22

**Labor Services Division[875]**

Replace Chapters 90 and 91

**CREDIT UNION DIVISION[189]**

Credit Union Department[295] renamed Credit Union Division[189] under the Department of Commerce by 1986 Iowa Acts, Senate File 2175, section 751, effective July 1, 1986. See IAB 9/10/86.

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MAINTENANCE OF ALLOWANCE FOR LOAN AND LEASE LOSSES ACCOUNT

**189—18.1(533) Definitions.** The following words and terms, when used in these rules, shall have the meaning shown below:

*“Allowance for loan and lease losses”* means an estimate of loan and lease losses in the entire loan portfolio, including estimated inherent losses, in conformity with generally accepted accounting principles and which meets regulatory requirements for full and fair disclosure of the financial statements.

*“Legal reserve”* means the statutory reserve account of the credit union set aside from gross earnings as a regular reserve against losses on loans and other contingencies, in accordance with Iowa Code chapter 533.

*“Provision for loan and lease losses”* means an expense account of the general ledger to which debit or credit adjustments to the allowance for loan and lease losses are charged.

*“Special reserve”* means an additional regular reserve account of the credit union, established and required by the superintendent, to be set aside against losses from loans or other contingencies, in accordance with Iowa Code chapter 533.

[ARC 9777B, IAB 10/5/11, effective 11/9/11]

**189—18.2(533) Legal reserve required.**

**18.2(1)** Each credit union shall establish and maintain a legal reserve for contingencies as provided by Iowa Code chapter 533. The totals of the legal reserve and the allowance for loan losses account shall be combined for determining the applicable percentage of gross income to be transferred to the legal reserve.

**18.2(2)** Nothing in this rule shall preclude the requirements of Iowa Code chapter 533 relating to the maintenance of the legal reserve or to the authority of the superintendent to approve a plan for distribution of the reserve or to the requiring of additional amounts to be set aside as a special reserve.

**189—18.3(533) Generally accepted accounting principles.**

**18.3(1)** Credit union financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP), except for authorized intentional regulatory accounting practices (RAP) which may differ, and shall provide for the complete and accurate disclosure of all assets, liabilities, and equity, including any valuation allowance accounts as may be necessary to correctly present the financial position; and all income and expenses necessary to correctly present the results of operations for the period concerned.

**18.3(2)** The financial statement shall be prepared and made available within 15 days after the end of each month and shall show the condition of the credit union as of the close of business on the last business day of the month.

**18.3(3)** Complete and accurate disclosure shall be required of a credit union so as to provide for a level of disclosure to any person or entity in order to clearly and objectively inform them of the financial condition and the results of operations of the credit union.

[ARC 9777B, IAB 10/5/11, effective 11/9/11]

**189—18.4(533) Allowance for loan and lease losses.**

**18.4(1)** The amount carried in this account shall represent an amount at least equal to reasonably foreseeable loan and lease losses. Each credit union is required to establish and maintain a methodology to determine the amount needed in the allowance for loan and lease losses account in accordance with generally accepted accounting principles (GAAP).

**18.4(2)** The credit union’s board of directors must adopt a policy ensuring that loans are charged off in a timely manner.

**18.4(3)** At a minimum, the account shall be adjusted at least quarterly or prior to the end of each dividend period, or more often as required. The amount of the periodic adjustments shall be determined by the credit union after all charge-offs and recoveries applicable to the period have been recorded.

Periodic adjustments to the allowance for loan and lease losses account will be charged to the provision for loan and lease losses.

**18.4(4)** The credit union shall maintain full and complete documentation of the determination of the balance in the allowance for loan and lease losses account.

**18.4(5)** The maintenance of an allowance for loan and lease losses account shall not eliminate the requirement for transferring the percentage of gross income before the payment of a dividend to the credit union's regular reserves as required by Iowa Code chapter 533.

[ARC 9777B, IAB 10/5/11, effective 11/9/11]

**189—18.5(533) Allowance for loan and lease losses computation.**

**18.5(1)** Credit unions are responsible for determining an adequate allowance for loan and lease losses account and adopting a reasonable methodology for doing so. In determining the appropriate allowance, each credit union shall:

- a. Separate the loan portfolio into homogenous loan pools based on common risk factors;
- b. Calculate the net loss percentage of each pool, using the historical loss or adjusted loss method which includes consideration of: loan delinquency status; collection experience of the credit union; economic conditions that may affect collectibility; availability of pledged shares; collateral, security, or endorsers; insured or guaranteed status; and the general credit reputation of the borrowers;
- c. Individually classify loans with unique characteristics;
- d. Add the resulting amounts to determine the amount needed in the allowance for loan and lease losses account.

**18.5(2)** If a credit union fails to determine an adequate and reasonable allowance for loan and lease losses which will result in the fair presentation of its financial statement, the superintendent may require additional amounts to be set aside as provided by Iowa Code chapter 533.

[ARC 9777B, IAB 10/5/11, effective 11/9/11]

**189—18.6(533) Accounting treatment.**

**18.6(1)** The allowance for loan and lease losses account shall be charged with the amount of the uncollectible loans which have been authorized for charge-off by the board of directors or as directed by the superintendent. Likewise, recoveries on loans charged off shall be credited to this account.

**18.6(2)** Routine periodic adjustments to the allowance for loan and lease losses account, accomplished during an accounting or dividend period within the current fiscal year, shall be made by a charge to the provision for loan and lease losses account.

**18.6(3)** Prior period adjustments to the allowance for loan and lease losses account, within the current fiscal year, may be permitted only in relation to the correction of an error in a prior period financial statement. These corrections shall be accounted for and reported in the same manner as routine periodic adjustments, and shall be charged to the current period expenses through the provision for loan and lease losses.

**18.6(4)** Prior period adjustments to the allowance for loan and lease losses account, outside of the current fiscal year, may be permitted only in relation to the correction of an error in the previous fiscal year financial statement. These corrections shall be accounted for and reported as a charge to the undivided earnings account. If the result of this correction would create a deficit balance in the undivided earnings account, the deficiency so created may be transferred to other segregations of undivided earnings or to the legal reserve account, subject to the prior approval of the superintendent.

**18.6(5)** If a deficit is created in the legal reserve account, through the establishment or maintenance of the allowance for loan and lease losses account, the deficit shall be transferred first to undivided earnings and, if this shall cause a deficit in undivided earnings, then to other segregations of undivided earnings that may exist, exclusive of the special reserve account should it be required by the superintendent.

**18.6(6)** The superintendent may waive, in whole or in part, the requirement for the maintenance of the allowance for loan and lease losses account which is in excess of the statutory reserve requirements of Iowa Code chapter 533 but is required under this chapter. Such waiver shall be as a result of written

application from the directors of a credit union and shall set forth their justification for the requested waiver.

[**ARC 9777B**, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code chapter 533.

[Filed 10/26/90, Notice 9/19/90—published 11/14/90, effective 1/1/91]

[Filed 11/10/92, Notice 8/19/92—published 11/25/92, effective 12/30/92]

[Filed ARC 9777B (Notice ARC 9672B, IAB 8/10/11), IAB 10/5/11, effective 11/9/11]



CHAPTER 27  
MILITARY SERVICE MEMBER HOME OWNERSHIP ASSISTANCE PROGRAM

**265—27.1(16) Purpose.** The purpose of the military service member home ownership assistance program is to help eligible members of the armed forces of the United States to purchase qualified homes in Iowa.

**265—27.2(16) Definitions.** As used in this chapter, unless the context otherwise requires:

*“Closing agent”* means the attorney, real estate firm, or closing company that is closing the cash sale qualifying purchase transaction and that prepares the cash sale settlement statement.

*“Eligible service member”* means a person purchasing his or her primary residence in the state of Iowa who, at the time of applying for a grant under the program, (1) is or was a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, and, if no longer in active service, was discharged in character other than dishonorable; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

*“Home ownership assistance”* means the one-time assistance of up to \$5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home. This assistance does not require repayment except pursuant to rule 265—27.4(16).

*“Participating lender”* means a lender approved for participation in one or more of the authority’s home buyer programs and a lender approved to facilitate loans under the military home ownership assistance program only. Eligible home buyer program participating lenders are those that make available the authority’s home buyer program to customers in the same manner as other mortgage loan programs. This requirement applies to branch and affiliate organizations that facilitate mortgage financing with the military assistance. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of mortgage loans made pursuant to one or more of the authority’s home buyer mortgage programs or mortgage rate sheets evidencing availability of the authority’s mortgage programs. The authority maintains a list of participating lenders on its Web site: [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

*“Program”* or *“military home ownership assistance program”* or *“MHOA”* means the military service member home ownership assistance program authorized by Iowa Code section 16.54 as amended by 2010 Iowa Acts, House File 2148.

*“Qualified home”* means a home that is located in the state of Iowa, that is purchased by an eligible service member as the service member’s primary residence, that will be immediately occupied by the service member or spouse, and that falls into one of the following categories:

1. Single-family residence, including “stick-built” homes, modular homes, or manufactured homes, provided the home is attached to a permanent foundation and is taxed as real estate;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as his or her primary residence.

The following categories of property shall not constitute a qualified home:

- Multifamily properties of five units or more;
- Commercial or nonresidential property;
- Farmland or other investment property;
- Recreational vehicles, mobile homes, or trailers that are not both attached to a permanent foundation and taxed as real estate.

*“Qualified mortgage”* means a permanent mortgage loan made pursuant to one of the authority’s home buyer mortgage programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage or, in cases where the home buyer is not eligible for standard

30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing mortgage loan made by a participating lender with a maturity date of not less than five years. The authority's home buyer mortgage program information may be obtained on the authority's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

*"Status documentation"* means written documentation of the applicant's status with the armed forces of the United States, typically a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant's most recent four months of leave and earnings statements.

*"Title guaranty certificate"* means the certificate issued by the title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both. Information about title guaranty may be obtained at the title guaranty Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

[ARC 8945B, IAB 7/28/10, effective 7/6/10; ARC 9803B, IAB 10/5/11, effective 11/9/11]

## **265—27.3(16) Application procedure and determination of eligibility.**

**27.3(1) Prior approval.** Whether the purchase of a qualified home is by mortgage financing or cash, prior approval of the assistance by the authority is required. Approval of the request will entail application and supporting document review by the authority and a determination of the service member's eligibility by the Iowa department of veterans affairs. A minimum of two weeks should be allowed for response from the authority.

### **27.3(2) Financed home purchases.**

*a.* In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's home buyer mortgage programs if the service member qualifies for it, unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless another permanent, fully amortizing mortgage loan is available if the service member does not qualify for one of the authority's home buyer mortgage programs.

*b.* To apply for the military assistance, the eligible service member shall provide the lender with all of the following:

- (1) Status documentation;
- (2) A bona fide purchase agreement with any addenda or attachments for a primary residence;
- (3) A complete loan application on Form 1003;
- (4) A copy of a government-issued photo identification card;
- (5) A copy of the subject appraisal; and
- (6) Documentation that demonstrates the home will be occupied as a primary residence.

*c.* The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority's mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures, and, if the service member is not eligible for a 30-year, fixed-rate mortgage loan, the request submission must also include fully amortized financing and information documenting ineligibility for FHA, VA, RD, Fannie Mae or Freddie Mac financing.

*d.* Once it has received all of the information required by this subrule, the lender shall transmit copies of the loan application, the status documentation, the purchase agreement, the photo ID, the appraisal, any necessary supporting documentation, and the MHOA application to the authority.

*e.* A service member who was otherwise eligible for the program and closed on a home on or after July 1, 2008, and prior to July 1, 2010, but who was ineligible for assistance under the program during that time due to the fact that the service member purchased a home with financing from a lender that was not a participating lender in the authority's home buyer programs, may retroactively receive assistance under the program provided that:



(1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority's home buyer programs at the time the service member closed on the service member's mortgage loan;

(2) The service member and the service member's lender provide all documentation as required by paragraphs "b" through "d," above; and

(3) The financing lender becomes a facilitating lender pursuant to 27.3(7).

**27.3(3) *Cash home purchases.*** In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, a completed MHOA application form obtained from the authority, and a bona fide purchase agreement with any addenda or attachments for a primary residence.

**27.3(4) *Referral of status documentation to Iowa department of veterans affairs.*** Upon receipt of the completed MHOA application, the authority shall submit the status documentation to the Iowa department of veterans affairs for verification that the applicant's duty status is consistent with the definition of "eligible service member." The Iowa department of veterans affairs shall be the final authority as to whether an applicant's duty status is consistent with the definition of "eligible service member."

**27.3(5) *Notice of MHOA approval.*** Upon confirmation of the applicant's service record by the Iowa department of veterans affairs, provided that the information submitted on the application form complies with the requirements of this chapter, the authority shall notify the lender, or eligible service member in the case of a cash purchase, that the MHOA application has been approved.

**27.3(6) *Gaps in funding.*** In cases where the military assistance funds are unavailable during the home purchase process, MHOA requests for approval shall be placed on a waiting list. When funds are again available, provided that all other criteria have been met, including issuance of the title guaranty certificate, and where the home purchase closed without the benefit of military assistance funds being applied toward closing costs or down payment, the proceeds of the assistance shall be paid (1) directly to the participating lender/servicing lender to be applied toward the qualified mortgage loan's principal balance, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. Additional documentation required shall include a statement executed by the applicant authorizing the assistance to be applied to the principal balance.

**27.3(7) *Approval process for facilitating lender status.*** An Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller.

[ARC 8945B, IAB 7/28/10, effective 7/6/10; ARC 9803B, IAB 10/5/11, effective 11/9/11]

**265—27.4(16) MHOA award.** Assistance awarded hereunder shall be up to \$5,000 toward the purchase of a qualified home and may be used for down payment or for closing costs, or for both. Assistance funds must be applied to the purchase of a qualified home and, in the case of mortgage financing, the mortgage must be a qualified mortgage. Any assistance proceeds which are not used for down payment or closing costs toward the purchase of a qualified home which is financed by a mortgage or cash purchase transaction must be returned to the authority.

**27.4(1) *MHOA reimbursement.*** The participating lender or cash payment home buyer shall advance funds at closing in an amount equal to the amount of the assistance on behalf of the eligible service member to be applied toward closing costs or the down payment. The lender or cash payment home

buyer, as applicable, shall, within 30 days of closing, submit to the authority a copy of the executed HUD-1 Settlement Statement (or, if the transaction is a cash purchase, the eligible service member may use the settlement statement certified by a closing agent and the eligible service member), a copy of the deed conveying title to the qualified home, a copy of a title guaranty certificate issued for the qualified home, and the military grant agreement and certification (form obtained from the authority) for reimbursement for the amount of the assistance. In the event the mortgage financing is not made pursuant to one of the authority's home buyer programs, reimbursement documentation shall include a certified copy of the promissory note, mortgage, and final truth-in-lending disclosure.

**27.4(2) MHOA assistance restrictions and limitations.** All assistance under the program is subject to funding availability. Assistance will be awarded in the order in which completed MHOA applications are received. Assistance awarded pursuant to the program is personal to its recipient and may not be assigned. Only one award of assistance shall be awarded per home purchase. An eligible service member shall receive only one award under the program. While program funds are available, the award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.

[ARC 8945B, IAB 7/28/10, effective 7/6/10; ARC 9803B, IAB 10/5/11, effective 11/9/11]

**265—27.5(16) Income, purchase price and qualified mortgage.** There are no income or purchase price limits under the program except for eligible service members purchasing with mortgage financing under one of the authority's home buyer programs. Service members who are not eligible for one of the authority's home buyer mortgage programs and are not purchasing on a cash basis must use other permanent mortgages made by the lender. Service members may also, if eligible, use other subsidy funds from the authority as allowed by one or more of the authority's programs, grant fund assistance available through other public agencies, nonprofit organizations, or the service member's employer, or any forgivable, "soft second" lien subsidy. Information about the authority's home buyer programs or how to contact a participating lender may be obtained on the authority's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

[ARC 8945B, IAB 7/28/10, effective 7/6/10]

These rules are intended to implement Iowa Code sections 16.5(1) "r" and 16.54.

[Filed emergency 7/14/06—published 8/2/06, effective 7/14/06]

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## CHAPTER 39

### HOME PARTNERSHIP PROGRAM

**265—39.1(16) Purpose.** The primary purpose of the HOME partnership program is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans.

[ARC 8963B, IAB 7/28/10, effective 7/8/10]

**265—39.2(16) Definitions.** When used in this chapter, unless the context otherwise requires:

*“Accessible”* means that the unit meets the construction standards for the rental unit set forth in Chapter 11 of the International Building Code 2009 or, if more stringent, the local building code related to accessibility of rental units.

*“Activity”* means one or more specific housing activities, projects or programs assisted through the HOME partnership program.

*“Administrative plan”* means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

*“CHDO”* means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IFA, pursuant to 24 CFR 92.2 (April 1, 1997).

*“Consolidated plan”* means the state’s housing and community development planning document and the annual action plan update approved by HUD.

*“Developer”* means any individual or entity responsible for initiating and controlling the development process and ensuring that all phases of the development process, or any material portion thereof, are accomplished. The development process applies to transitional housing, rental housing, rehabilitation, rental housing new construction, and homeowner assistance with development subsidies.

*“Development subsidies”* means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

*“Displaced homemaker”* means an individual who (1) is an adult; (2) has not worked full-time/full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

*“Energy Star”* means a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that establishes standards and practices to improve energy efficiency.

*“Energy Star certification”* means a property meets strict guidelines for energy efficiency set by the U.S. Environmental Protection Agency (EPA), making the property 20 to 30 percent more efficient than standard homes. Homes achieve this level of performance through a combination of energy-efficient improvements, including effective insulation systems, high-performance windows, tight construction and ducts, efficient heating and cooling equipment, and Energy Star-qualified lighting and appliances.

*“Energy Star rater”* means a certified inspector who works closely with the builder throughout the construction process to help determine the needed energy-saving equipment and construction techniques and to conduct required on-site diagnostic testing and inspections to document that the home is eligible to earn the Energy Star certification.

*“Extremely low income”* means individuals or families whose annual incomes do not exceed 30 percent of the median income for the area, as determined by HUD.

*“First-time home buyer”* means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time home buyer on the basis that the individual, while a homemaker, owned a home with the individual’s spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence

during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

*“Gut rehabilitation”* means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). *“Gut rehabilitation”* may also include structural or nonstructural modifications to the exterior of the structure.

*“HOME”* means the HOME Investment Partnership Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

*“HUD”* means the U.S. Department of Housing and Urban Development.

*“IDIS”* means the HUD Integrated Disbursement and Information System.

*“IFA”* means the Iowa finance authority.

*“Lead hazard reduction or abatement carrying costs”* means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. *“Lead hazard reduction or abatement carrying costs”* includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

*“LIHTC”* means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through IFA for affordable rental housing development.

*“Local financial support”* means financial investment by the recipient through the use of the recipient’s own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the HOME partnership program and that are used during the same time frame as the requested housing activity or project.

*“Local support”* means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the HOME partnership program.

*“Low income”* means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD.

*“Net proceeds”* means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller’s reasonable and customary closing costs associated with the resale.

*“New construction rental units”* means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.

*“Program income”* means funds generated by a recipient or subrecipient from the use of HOME funds.

*“Reasonable and customary closing costs”* means:

1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

2. Buyer’s reasonable and customary closing costs incurred include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.

*“Recaptured funds”* means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME partnership program home ownership funds does not continue to be the principal residence of the assisted home buyer for the full affordability period required by federal statute.

*“Recipient”* means the entity under contract with IFA to receive HOME funds and undertake the funded housing activity.

*“Repayment”* means HOME funds which the recipient must repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

*“Single-family unit”* means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

*“Single parent”* means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

*“Subrecipient”* means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity under the HOME program. “Subrecipient” includes a state recipient pursuant to 24 CFR 92.201(b)(2). A public agency or nonprofit organization that receives HOME funds as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law. Eligible activities to be administered by a subrecipient are tenant-based rental assistance and home ownership assistance without development subsidies.

*“Technical services”* means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.

*“Technical services provision”* means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

*“Very low income”* means families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11; ARC 9764B, IAB 10/5/11, effective 11/9/11]

**265—39.3(16) Eligible applicants.** Eligible applicants for HOME assistance include all incorporated cities and all counties within the state of Iowa, nonprofit 501(c) organizations, CHDOs, and for-profit corporations or partnerships.

**39.3(1)** Any eligible applicant may apply directly to IFA.

**39.3(2)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.4(16) Eligible activities and forms of assistance.**

**39.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance that includes some form of direct subsidy to the home buyer (including development subsidies), and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

*a.* Assisted units shall be affordable.

(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.

(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction's applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed the single family mortgage limits under Section 203(b) of the National Housing Act established in February 2008 for home buyers with purchase agreements fully executed before February 15, 2012. For all home buyers with purchase agreements executed on or after February 15, 2012, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the HUD after rehabilitation value limits for median sales price by county. Assisted units shall remain affordable through recapture with net proceeds or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

*b.* Assisted households shall meet income limits established by federal program requirements.

(1) For rental activities for projects with 35 units or fewer, all assisted units shall be rented to low-income households; at initial occupancy, 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.

(2) For rental activities for projects with 36 units or more, all assisted units shall be rented to low-income households; at initial occupancy and throughout the HOME compliance period, 5 percent of all of the units, assisted or not assisted, in the project shall be rented to extremely low-income households, and the household shall not pay more than the rent established by HUD for extremely low-income households. At initial occupancy, the remainder of the HOME assisted units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.

(3) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(4) For home ownership assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted.

*c.* Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

*d.* Energy Star. All new construction must obtain Energy Star certification verified by an Energy Star rater.

**39.4(2)** Eligible forms of IFA assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IFA.

**39.4(3)** For all single-family housing projects or activities assisting homeowners or home buyers, the only form of HOME funds assistance to the end beneficiary is a forgivable loan.

**39.4(4)** Program income must be returned to IFA except in the following instances:

*a.* Subrecipients who receive program income shall reduce the HOME draw amount requested by the amount of program income received and must report to IFA the amount and source of the program income.

*b.* CHDOs that have an IFA-approved reuse plan and a written agreement that specifies that program income may be retained by the CHDO may use program income as CHDO proceeds.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11; ARC 9802B, IAB 10/5/11, effective 9/16/11; ARC 9764B, IAB 10/5/11, effective 11/9/11]

#### **265—39.5(16) Application procedure.**

**39.5(1)** HOME applications shall be reviewed at least annually. IFA reserves the right to withhold funding from the annual HOME competitive cycle to compensate for insufficient number or quality of applications received, to ensure IFA meets its 15 percent CHDO set-aside from HOME funds, to add HOME funds to existing HOME awards within one year of the original award date, to reallocate deobligated or recaptured funds, and to fund projects that are consistent with the Rural Development Section 515 Preservation Demonstration Program. In the event that funds are withheld from the annual competitive cycle, IFA will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IFA.

**39.5(2)** Joint applications. For applicants requesting funding from both the HOME partnership and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the LIHTC program at IFA. IFA will make a joint tax credit and HOME application available to a potential applicant. The applicant must submit to IFA the completed application with required HOME attachments by the deadline established in the application package. An applicant shall meet the requirements of the LIHTC and the HOME program to receive an award of HOME funds.

*a.* IFA shall appoint a joint review team to discuss and review applications for HOME and LIHTC funds and any other funding sources. Staff for each program may communicate frequently regarding common projects. Information contained in the joint application will be shared with each program.

*b.* HOME staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides) and the HOME application requirements. Staff for each program will make recommendations for funding to the IFA board of directors. A decision by one program does not bind the other program to fund a project.

*c.* An applicant for the HOME partnership program must meet the threshold requirements outlined in rule 265—39.6(16).

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.6(16) Application requirements.** To be considered for HOME assistance, an application shall meet the following threshold criteria.

**39.6(1)** The application shall propose a housing activity consistent with the HOME fund purpose and eligibility requirements and the state consolidated plan.

**39.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IFA reserves sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of

certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

**39.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, the feasibility of the proposed activity, and the impact of additional housing resources on the existing related housing market.

**39.6(4)** The application shall demonstrate local support for the proposed activity.

**39.6(5)** The application shall show that a need for HOME assistance exists after all other financial resources have been identified and secured for the proposed activity.

**39.6(6)** The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

**39.6(7)** Maximum per-unit subsidy amount and subsidy layering. The following shall apply to all applications:

*a.* The total amount of HOME funds awarded on a per-unit basis may not exceed the per-unit dollar limitations established under Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

*b.* IFA shall evaluate the project in accordance with subsidy layering guidelines adopted for this purpose.

*c.* The total amount of HOME funds awarded on a per-unit basis cannot exceed the pro rata or fair share of the total project costs when compared to a similar unit in a rental activity.

**39.6(8)** An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of the applicant's home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

*a.* With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.

*b.* The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME home ownership assistance must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form of assistance, such as home equity loans. A home buyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

*c.* Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) The loan must be a fully amortizing, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125% or VA-published interest rate at par;

(2) Loan terms must include an 80 percent or higher loan-to-value ratio;

(3) No less than a 15-year, fully amortized, fixed-rate mortgage shall be used; and

(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

*d.* Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa finance authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Habitat for Humanity, Fannie Mae, or Freddie Mac.

**39.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time home buyers only and that the assisted unit will remain as the assisted home buyer's principal residence throughout the required period of affordability, which must be verified annually by the subrecipient. If the assisted home buyer fails to maintain the home as the principal residence during the affordability period, then all HOME funds associated with that address must be repaid to IFA.

**39.6(10)** An application for a home ownership assistance activity must stipulate that all assisted units will be insured for at least the full value of the assisted unit, which must be verified annually by the subrecipient.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11; ARC 9764B, IAB 10/5/11, effective 11/9/11]



**265—39.7(16) Application review criteria.**

**39.7(1)** IFA shall evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity to be undertaken. The activity criteria shall be a part of the application. Training will be offered prior to the application deadline to provide information and technical assistance to potential applicants.

**39.7(2)** A request for proposals shall be published by IFA when funds are available to award. The request for proposals shall specify the general criteria, need, impact and feasibility criteria, and the administrative criteria based on the activity proposed. Notice of the availability of funding will be placed on IFA's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

**39.7(3)** Special consideration will be given to applications where 100 percent of the HOME-funded rental units are fully accessible (not adaptable).

[ARC 9284B, IAB 12/15/10, effective 1/19/11]

**265—39.8(16) Allocation of funds.**

**39.8(1)** IFA may retain a portion of the amount up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

**39.8(2)** Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

**39.8(3)** IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits and for the Rural Development Section 515 Preservation Demonstration Program.

**39.8(4)** Not more than 5 percent of the state's annual HOME allocation may be reserved for CHDO operating expenses.

**39.8(5)** IFA reserves the right to limit the amount of funds that shall be awarded for any single activity type.

**39.8(6)** Awards shall be limited to no more than \$600,000 for all single-family activities assisting home buyers. Awards shall be limited to no more than \$1,000,000 for all multifamily rental activities.

**39.8(7)** Single-family per unit subsidies.

*a.* The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with HOME funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

*b.* Assistance for single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

*c.* Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$30,000 per unit. Development subsidies shall only be provided in addition to direct subsidies within home buyer assistance activities. When a development subsidy is used in combination with home buyer assistance activities, assistance is limited to \$35,000 per unit, inclusive of all costs.

**39.8(8)** Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is \$70,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$70,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

**39.8(9)** Subrecipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients

must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME funds as technical services costs.

**39.8(10)** IFA reserves the right to negotiate the amount and terms of a HOME funds award.

**39.8(11)** IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11]

**265—39.9(16) Administration of awards.** Applicants selected to receive HOME funds awards shall be notified by letter from the IFA executive director or IFA affordable rental production division director.

**39.9(1)** *Preaudit survey.* Rescinded IAB 10/5/11, effective 11/9/11.

**39.9(2)** *Contract.* A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME Program Guide for the specified activity and all applicable federal and state laws and regulations shall be part of the contract.

*a.* The recipient shall execute and return the contract to IFA within 45 days of transmittal of the final contract from IFA. Failure to do so may be cause for IFA to terminate the award.

*b.* Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

*c.* Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

*d.* Rescinded IAB 12/15/10, effective 1/19/11.

*e.* Release of funds shall be conditioned upon IFA's receipt and approval of documentation of environmental clearance.

**39.9(3)** *Local administrative and technical services contracts.*

*a.* Subrecipients awarded funds to perform the general administrative functions for home ownership assistance and tenant-based rental assistance activities shall enter into a contract for services with IFA.

*b.* Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed. The procurement must follow 24 CFR Part 84 and 24 CFR Part 85, when necessitated by those regulations.

**39.9(4)** *Requests for funds.* Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds. Adequate and itemized documentation supporting the amount of funds requested must be provided and approved by IFA prior to release of funds. IFA shall retain up to 10 percent of the HOME funds for development subsidies from payment to the recipient until 30 days after the recipient satisfactorily completes the work and full occupancy of the HOME-assisted units is attained. At IFA's discretion, up to 5 percent of the HOME funds for home buyer and tenant-based rental assistance activities may be retained from payment to the subrecipient for program or administrative costs until the final closeout documents are submitted to and approved by IFA.

**39.9(5)** *Record keeping and retention.*

*a.* HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:

(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;

(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;

(4) Written agreements must be retained for five years after the agreement terminates;

(5) For records covering displacements and acquisitions, see 24 CFR 92.508;

(6) For records relating to litigation, see 24 CFR 92.508.

b. Representatives of IFA, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a HOME funds award; to the total project receipts and expenditures related to new construction, acquisition, or rehabilitation; and to any records maintained by third-party administrators for general administration or technical services for the HOME-funded project. IFA reserves the right to demand any and all additional records and documents that may relate to the HOME award.

**39.9(6) *Performance reports and reviews.*** Recipients shall submit performance reports to IFA in the manner and on forms prescribed by IFA. Reports shall assess the use of funds and progress of activities. IFA may perform reviews or field inspections necessary to ensure recipient performance.

**39.9(7) *Amendments to contracts.*** Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IFA following the procedure specified in the contract between the recipient and IFA.

**39.9(8) *Work completion closeout.*** Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures in IDIS. Recipients shall comply with applicable audit requirements, performance reports and Section 3 requirements and provide other required documents described in the HOME funds application, the contract, the IFA HOME Program Guide, and any other IFA HOME partnership program policies and procedures.

**39.9(9) *Compliance with federal, state and local laws and regulations.*** Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

**39.9(10) *Remedies for noncompliance.*** At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IFA's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IFA. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

**39.9(11) *Appeals process for findings of noncompliance.*** Appeals will be entertained in instances where it is alleged that IFA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IFA. Appeals should be addressed to the director of the affordable rental production division. Appeals shall be in writing and submitted to IFA within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. IFA's executive director will make the final decision on all appeals.

[ARC 8963B, IAB 7/28/10, effective 7/8/10; ARC 9284B, IAB 12/15/10, effective 1/19/11; ARC 9764B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code sections 16.5(1)"f" and 16.5(1)"m" and the Cranston-Gonzalez National Affordable Housing Act of 1990.

[Filed Emergency ARC 8963B, IAB 7/28/10, effective 7/8/10]

[Filed ARC 9284B (Notice ARC 9159B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

[Filed Emergency ARC 9802B, IAB 10/5/11, effective 9/16/11]

[Filed ARC 9764B (Notice ARC 9644B, IAB 7/27/11), IAB 10/5/11, effective 11/9/11]



CHAPTER 156  
PAYMENTS FOR FOSTER CARE

[Prior to 7/1/83, Social Services[770] Ch 137]  
[Previously appeared as Ch 137—renumbered IAB 2/29/84]  
[Prior to 2/11/87, Human Services[498]]

**441—156.1(234) Definitions.**

*“Child welfare services”* means age-appropriate activities to maintain a child’s connection to the child’s family and community, to promote reunification or other permanent placement, and to facilitate a child’s transition to adulthood.

*“Cost of foster care”* means the maintenance and supervision costs of foster family care, the maintenance costs and child welfare service costs of group care, and the maintenance and service costs of supervised apartment living and shelter care. The cost for foster family care supervision and for supervised apartment living services provided directly by the department caseworker shall be \$250 per month. When using this average monthly charge results in unearned income or parental liability being collected in excess of the cost of foster care, the excess funds shall be placed in the child’s escrow account. The cost for supervised apartment living services purchased from a private provider shall be the actual costs paid by the department.

*“Department”* means the Iowa department of human services.

*“Director”* means the director of the child support recovery unit of the department or the director’s designee.

*“Earned income”* means income in the form of a salary, wages, tips, bonuses, commissions earned as an employee, income from job corps or profit from self-employment.

*“Escrow account”* means an interest bearing account in a bank or savings and loan association which is maintained by the department in the name of a particular child.

*“Family foster care supervision”* means the support, assistance, and oversight provided by department caseworkers to children in family foster care and directed toward achievement of the child’s permanency plan goals.

*“Foster care”* means substitute care furnished on a 24-hour-a-day basis to an eligible child in a licensed or approved facility by a person or agency other than the child’s parent or guardian but does not include care provided in a family home through an informal arrangement for a period of 20 days or less. Child foster care shall include but is not limited to the provision of food, lodging, training, education, supervision and health care.

*“Foster family care”* means foster care provided by a foster family licensed by the department according to 441—Chapter 113 or licensed or approved by the placing state. The care includes the provision of food, lodging, clothing, transportation, recreation, and training that is appropriate for the child’s age and mental and physical capacity.

*“Group care maintenance”* means food, clothing, shelter, school supplies, personal incidentals, daily care, general parenting, discipline, and supervision of children to ensure their well-being and safety, and administration of maintenance items provided in a group care facility.

*“Income”* means earned and unearned income.

*“Mental health professional”* means a person who meets all of the following conditions:

1. Holds at least a master’s degree in a mental health field including, but not limited to, psychology, counseling and guidance, psychiatric nursing and social work; or is a doctor of medicine or osteopathic medicine; and
2. Holds a current Iowa license when required by the Iowa professional licensure laws (such as a psychiatrist, a psychologist, a marital and family therapist, a mental health counselor, an advanced registered nurse practitioner, a psychiatric nurse, or a social worker); and
3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental health problems, mental illness, and service needs and in providing mental health services.

*“Mental retardation professional”* means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the

educational requirements for the profession, as required in the state of Iowa, and has one year of experience working with persons with mental retardation.

*“Parent”* means the biological or adoptive parent of the child.

*“Parental liability”* means a parent’s liability for the support of a child during the period of foster care placement. Liability shall be determined pursuant to 441—Chapter 99, Division I.

*“Physician”* means a licensed medical or osteopathic doctor as defined in rule 441—77.1(249A).

*“Service area manager”* means the department employee or designee responsible for managing department offices within a department service area and for implementing policies and procedures of the department.

*“Special needs child”* means a child with needs for emotional care, behavioral care, or physical and personal care which require additional skill, knowledge, or responsibility on the part of the foster parents, as measured by Form 470-4401, Foster Child Behavioral Assessment. See subrule 156.6(4).

*“Unearned income”* means any income which is not earned income and includes supplemental security income (SSI) and other funds available to a child residing in a foster care placement.

This rule is intended to implement Iowa Code section 234.39.

[ARC 7606B, IAB 3/11/09, effective 5/1/09; ARC 7741B, IAB 5/6/09, effective 7/1/09; ARC 8010B, IAB 7/29/09, effective 10/1/09]

**441—156.2(234) Foster care recovery.** The department shall recover the cost of foster care provided by the department pursuant to the rules in this chapter and the rules in 441—Chapter 99, Division I, which establishes policies and procedures for the computation and collection of parental liability.

**156.2(1)** Funds shall be applied to the cost of foster care in the following order and each source exhausted before utilizing the next funding source:

- a. Unearned income of the child.
- b. Parental liability of the noncustodial parent.
- c. Parental liability of custodial parent(s).

**156.2(2)** The department shall serve as payee to receive the child’s unearned income. When a parent or guardian is not available or is unwilling to do so, the department shall be responsible for applying for benefits on behalf of a child placed in the care of the department. Until the department becomes payee, the payee shall forward benefits to the department. For voluntary foster care placements of children aged 18 and over, the child is the payee for the unearned income. The child shall forward these benefits, up to the actual cost of foster care, to the department.

**156.2(3)** The custodial parent shall assign child support payments to the department.

**156.2(4)** Unearned income of a child and parental liability of the noncustodial parent shall be placed in an account from whence it shall be applied toward the cost of the child’s current foster care and the remainder placed in an escrow account.

**156.2(5)** When a child has funds in escrow these funds may be used by the department to meet the current needs of the child not covered by the foster care payments and not prohibited by the source of the funds.

**156.2(6)** When the child leaves foster care, funds in escrow shall be paid to the custodial parent(s) or guardian or to the child when the child has attained the age of majority, unless a guardian has been appointed.

**156.2(7)** When a child who has unearned income returns home after the first day of a month, the remaining portion of the unearned income (based on the number of days in the particular month) shall be made available to the child and the child’s parents, guardian or custodian, if the child is eligible for the unearned income while in the home of a parent, guardian or custodian.

This rule is intended to implement Iowa Code section 234.39.

**441—156.3(252C) Computation and assessment of parental liability.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.4(252C) Redetermination of liability.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.5(252C) Voluntary payment.** Rescinded IAB 3/13/96, effective 5/1/96.

**441—156.6(234) Rate of maintenance payment for foster family care.**

**156.6(1) *Basic rate.*** A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

<u>Age of child</u>	<u>Daily rate</u>
0 through 5	\$15.74
6 through 11	\$16.37
12 through 15	\$17.92
16 or over	\$18.16

**156.6(2) *Out-of-state rate.*** A monthly payment for care in a foster family home licensed or approved in another state shall be made to the foster family based on the rate schedule in effect in Iowa, except that the service area manager or designee may authorize a payment to the foster family at the rate in effect in the other state if the child's family lives in that state and the goal is to reunite the child with the family.

**156.6(3) *Mother and child in foster care.*** When the child in foster care is a mother whose young child is in placement with her, the rate paid to the foster family shall be based on the daily rate for the mother according to the rate schedule in subrules 156.6(1) and 156.6(4) and for the child according to the rate schedule in subrule 156.6(1). The foster parents shall provide a portion of the young child's rate to the mother to meet the partial maintenance needs of the young child as defined in the case permanency plan.

**156.6(4) *Difficulty of care payment.***

*a.* For placements made before January 1, 2007, when foster parents provide care to a special needs child, the foster family shall be paid the basic maintenance rate plus \$5 per day for extra expenses associated with the child's special needs. This rate shall continue for the duration of the placement.

*b.* When a foster family provides care to a sibling group of three or more children, an additional payment of \$1 per day per child may be authorized for each nonspecial needs child in the sibling group.

*c.* When the foster family's responsibilities in the case permanency plan include providing transportation related to family or preplacement visits outside the community in which the foster family lives, the department worker may authorize an additional maintenance payment of \$1 per day. Expenses over the monthly amount may be reimbursed with prior approval by the worker. Eligible expenses shall include the actual cost of the most reasonable passenger fare or gas.

*d.* Effective January 1, 2007, when a foster family provides care to a child who was receiving behavioral management services for children in therapeutic foster care in that placement as of October 31, 2006, the foster family shall be paid the basic maintenance rate plus \$15 per day for that child. This rate shall continue for the duration of the placement.

*e.* Effective January 1, 2007, when a service area manager determines that as of October 31, 2006, a foster family was providing care for a child comparable to behavioral management services for children in therapeutic foster care, except that the placement is supervised by the department and the child's treatment plan is supervised by a physician, mental health professional, or mental retardation professional, the foster family shall be paid the basic maintenance rate plus \$15 per day for that child. This rate shall continue for the duration of the placement.

*f.* For placements made on or after January 1, 2007, the supervisor may approve an additional maintenance payment above the basic rate in subrule 156.6(1) to meet the child's special needs as identified by the child's score on Form 470-4401, Foster Child Behavioral Assessment. The placement worker shall complete Form 470-4401 within 30 days of the child's initial entry into foster care.

(1) Additional maintenance payments made under this paragraph shall begin no earlier than the first day of the month following the month in which Form 470-4401 is completed and shall be awarded as follows:

1. Behavioral needs rated at level 1 qualify for a payment of \$4.81 per day.
2. Behavioral needs rated at level 2 qualify for a payment of \$9.62 per day.
3. Behavioral needs rated at level 3 qualify for a payment of \$14.44 per day.

(2) The department shall review the child's need for this difficulty of care maintenance payment using Form 470-4401:

1. Whenever the child's behavior changes significantly;
  2. When the child's placement changes;
  3. After termination of parental rights, in preparation for negotiating an adoption subsidy or pre-subsidy payment; and
  4. Before a court hearing on guardianship subsidy.
- g. All maintenance payments, including difficulty of care payments, shall be documented on Form 470-0716, Foster Family Placement Contract.
- h. Rescinded IAB 1/3/07, effective 1/1/07.

**156.6(5) *Payment method.*** All foster family maintenance payments shall be made directly to the foster family.

**156.6(6) *Return of overpayments.*** When a foster family has received payments in excess of those allowed under this chapter, the department caseworker shall ask the foster family to return the overpayment. If the foster family is returning the overpayment to the department, the caseworker will note the monthly amount the foster family agrees to pay in the family's case file. The amount returned shall not be less than \$50 per month.

This rule is intended to implement Iowa Code section 234.38 and 2011 Iowa Acts, House File 649, section 28(4).

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 8451B, IAB 1/13/10, effective 1/1/10; ARC 8653B, IAB 4/7/10, effective 5/12/10; ARC 8904B, IAB 6/30/10, effective 7/1/10; ARC 9778B, IAB 10/5/11, effective 11/9/11]

**441—156.7(234) Purchase of family foster care services.** Rescinded IAB 5/6/09, effective 7/1/09.

**441—156.8(234) Additional payments.**

**156.8(1) *Clothing allowance.*** When, in the judgment of the worker, clothing is needed at the time the child is removed from the child's home and placed in foster care, an allowance may be authorized, not to exceed \$237.50, to purchase clothing.

a. Once during each calendar year that the child remains in foster care, the department worker may authorize another clothing allowance, not to exceed \$190 for family foster care and \$100 for all other levels when:

- (1) The child needs clothing to replace lost clothing or because of growth or weight change, and
- (2) The child does not have escrow funds to cover the cost.

b. When clothing is purchased by the foster family, the foster family shall submit receipts to the worker within 30 days of purchase for auditing purposes, using Form 470-1952, Foster Care Clothing Allowance.

**156.8(2) *Supervised apartment living.*** Effective July 1, 2011, when a child is initially placed in supervised apartment living, the service area manager or designee may authorize an allowance not to exceed \$600 if the child does not have sufficient resources to cover initial costs.

**156.8(3) *Medical care.*** When a child in foster care needs medical care or examinations which are not covered by the Medicaid program and no other source of payment is available, the cost may be paid from foster care funds with the approval of the service area manager or designee. Eligible costs shall include emergency room care, medical treatment by out-of-state providers who refuse to participate in the Iowa Medicaid program, and excessive expenses for nonprescription drugs or supplies. Requests for payment for out-of-state medical treatment and for nonprescription drugs or supplies shall be approved prior to the care being provided or the drugs or supplies purchased. Claims shall be submitted to the department on Form GAX, General Accounting Expenditure, within 90 days after the service is provided. The rate of payment shall be the same as allowed under the Iowa Medicaid program.

**156.8(4) *Transportation for medical care.*** When a child in foster family care has expenses for transportation to receive medical care which cannot be covered by the Medicaid program, the expenses may be paid from foster care funds, with the approval of the service area manager. The claim for all the expenses shall be submitted to the department on Form GAX, General Accounting Expenditure, within 90 days after the trip. This payment shall not duplicate or supplement payment through the Medicaid



program. The expenses may include the actual cost of meals, parking, child care, lodging, passenger fare, or mileage at the rate granted state employees.

**156.8(5) *Funeral expense.*** When a child under the guardianship of the department dies, the department will pay funeral expenses not covered by the child's resources, insurance or other death benefits, the child's legal parents, or the child's county of legal settlement, not to exceed \$650.

The total cost of the funeral and the goods and services included in the total cost shall be the same as defined in rule 441—56.3(239,249).

The claim shall be submitted by the funeral director to the department on Form GAX, General Accounting Expenditure, and shall be approved by the service area manager. Claims shall be submitted within 90 days after the child's death.

**156.8(6) *School fees.*** Payment for required school fees of a child in foster family care or supervised apartment living that exceed \$5 may be authorized by the department worker in an amount not to exceed \$50 per calendar year if the child does not have sufficient escrow funds to cover the cost. Required school fees shall include:

- a. Fees required for participation in school or extracurricular activities; and
- b. Fees related to enrolling a child in preschool when a mental health professional or a mental retardation professional has recommended school attendance.

**156.8(7) *Respite care.*** The service area manager or designee may authorize respite for a child in family foster care for up to 24 days per calendar year per placement. Respite shall be provided by a licensed foster family. The payment rate to the respite foster family shall be the rate authorized under rule 441—156.6(234) to meet the needs of the child.

**156.8(8) *Tangible goods, child care, and ancillary services.*** To the extent that a foster child's escrow funds are not available, the service area manager or designee may authorize reimbursement to foster parents for the following:

- a. Tangible goods for a special needs child including, but not limited to, building modifications, medical equipment not covered by Medicaid, specialized educational materials not covered by educational funds, and communication devices not covered by Medicaid.

- b. Child care services when the foster parents are working, the child is not in school, and the provision of child care is identified in the child's case permanency plan.

- (1) Child care services shall be provided by a licensed foster parent or a licensed or registered child care provider when available.

- (2) When foster parents elect to become child care providers, they shall be registered pursuant to 441—Chapter 110.

- c. Ancillary services needed by the foster parent to meet the needs of a special needs child including, but not limited to, specialized classes when directed by the case permanency plan.

- d. Ancillary services needed by the special needs child including, but not limited to, recreation fees, in-home tutoring and specialized classes not covered by education funds.

- e. Requests for tangible goods, child care, and ancillary services shall be submitted to the service area manager for approval on Form 470-3056, Request for Tangible Goods, Child Care, and Ancillary Services. Payment rates for tangible goods and ancillary services shall be comparable to prevailing community standards. Payment rates for child care shall be established pursuant to 441—subrule 170.4(7).

- f. Prior payment authorization shall be issued by the service area manager before tangible goods, child care, and ancillary services are purchased by or for foster parents.

This rule is intended to implement Iowa Code section 234.35.

[ARC 7606B, IAB 3/11/09, effective 5/1/09; ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 8451B, IAB 1/13/10, effective 1/1/10; ARC 8653B, IAB 4/7/10, effective 5/12/10; ARC 9778B, IAB 10/5/11, effective 11/9/11]

#### **441—156.9(234) Rate of payment for foster group care.**

**156.9(1) *In-state reimbursement.*** Effective November 1, 2006, public and private foster group care facilities licensed or approved in the state of Iowa shall be paid for group care maintenance and child welfare services in accordance with the rate-setting methodology in this subrule.

a. A provider of group care services shall maintain at least the minimum staff-to-child ratio during prime programming time as established in the contract. Staff shall meet minimum qualifications as established in 441—Chapters 114 and 115. The actual number and qualifications of the staff will vary depending on the needs of the children.

b. Additional payment for group care maintenance may be authorized if a facility provides care for a mother and her young child according to subrule 156.9(4).

c. Reimbursement rates shall be adjusted based on the provider's rate in effect on October 31, 2006, to reflect an estimate that group care providers will provide an average of one hour per day of group remedial services and one hour per week of individual remedial services. The reimbursement rate shall be calculated as follows:

(1) Step 1. Annualize the provider's combined daily reimbursement rate for maintenance and service in effect on October 31, 2006, by multiplying that combined rate by 365 days.

(2) Step 2. Annualize the provider's remedial services reimbursement rate for one hour per day of remedial services code 96153 (health and behavioral interventions - group), as established by the Iowa Medicaid enterprise, by multiplying that rate by 365 days.

(3) Step 3. Annualize the provider's remedial services reimbursement rate for one hour per week of remedial services code 96152 (health and behavioral interventions - individual), as established by the Iowa Medicaid enterprise, by multiplying that rate by 52 weeks.

(4) Step 4. Add the amounts determined in Steps 2 and 3.

(5) Step 5. Subtract the amount determined in Step 4 from the amount determined in Step 1.

(6) Step 6. Divide the amount determined in Step 5 by 365 to compute the new combined maintenance and child welfare service per diem rate.

(7) Step 7. Determine the maintenance portion of the per diem rate by multiplying the new combined per diem rate determined in Step 6 by 85.62 percent.

(8) Step 8. Determine the child welfare service portion of the per diem rate by multiplying the new combined per diem rate determined in Step 6 by 14.38 percent.

EXAMPLE: Provider A has the following rates as of October 31, 2006:

- A combined daily maintenance and service rate of \$121.45;
- A Medicaid rate for service code 96153 of \$5.10 per 15 minutes, or \$20.40 per hour;
- A Medicaid rate for service code 96152 of \$19.92 per 15 minutes, or \$79.68 per hour.

Step 1.  $\$121.45 \times 365 \text{ days} = \$44,329.25$

Step 2.  $\$20.40 \times 365 \text{ days} = \$7,446.00$

Step 3.  $\$79.68 \times 52 \text{ weeks} = \$4,143.36$

Step 4.  $\$7,446.00 + \$4,143.36 = \$11,589.36$

Step 5.  $\$44,329.25 - \$11,589.36 = \$32,739.89$

Step 6.  $\$32,739.89 \div 365 \text{ days} = \$89.70$

Step 7.  $\$89.70 \times 0.8562 = \$76.80$  maintenance rate

Step 8.  $\$89.70 \times 0.1438 = \$12.90$  child welfare service rate

Provider A's rates are \$76.80 for maintenance and \$12.90 for child welfare services.

d. No less than annually, the department shall redetermine the allocation of the combined child welfare service per diem rate between the maintenance and service portions based on review of verified remedial services cost reports for foster group care services providers. If the new allocation differs from the current allocation, the department shall:

(1) Reallocate the combined child welfare service per diem for foster group care between the maintenance and service portions of the combined rate; and

(2) Notify all providers of any change in the allocation between maintenance and service rates and the effective date.

**156.9(2) Out-of-state group care payment rate.** The payment rate for maintenance and child welfare services provided by public or private agency group care licensed or approved in another state shall be established using the same rate-setting methodology as that in subrule 156.9(1), unless the director determines that appropriate care is not available within the state pursuant to the following criteria and procedures.

*a. Criteria.* When determining whether appropriate care is available within the state, the director shall consider each of the following:

- (1) Whether the child's treatment needs are exceptional.
- (2) Whether appropriate in-state alternatives are available.
- (3) Whether an appropriate in-state alternative could be developed by using juvenile court-ordered service fund or wrap-around funds.
- (4) Whether the placement and additional payment are expected to be time-limited with anticipated outcomes identified.
- (5) If the placement has been approved by the service area manager or chief juvenile court officer.

*b. Procedure.* The service area manager or chief juvenile court officer shall submit the request for director's exception to the Appeals Section, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114. This request shall be made in advance of placing the child and should allow a minimum of two weeks for a response. The request shall contain documentation addressing the criteria for director's approval listed in 156.9(2) "a."

*c. Appeals.* The decision of the director regarding approval of an exception to the rate determination in rule 441—152.3(234) is not appealable.

**156.9(3) Supplemental payments for in-state facilities.** Rescinded IAB 9/1/93, effective 8/12/93.

**156.9(4) Mother-young child rate.** When a group foster care facility provides foster care for a mother and her young child, the maintenance rate for the mother shall include an additional amount to cover the actual and allowable maintenance needs of the young child. No additional amount shall be allowed for service needs of the child.

*a.* The rate shall be determined according to the policies in rule 441—152.3(234) and added to the maintenance rate for the mother. The young child portion of the maintenance rate shall be limited to the costs associated with food, clothing, shelter, personal incidentals, and supervision for each young child and shall not exceed the maintenance rate for the mother. Costs for day care shall not be included in the maintenance rate.

*b.* Rescinded IAB 6/8/94, effective 6/1/94.

*c.* Unless the court has transferred custody from the mother, the mother shall have primary responsibility for providing supervision and parenting for the young child. The facility shall provide services to the mother to assist her to meet her parenting responsibilities and shall monitor her care of the young child.

*d.* The facility shall provide services to the mother to assist her to:

- (1) Obtain a high school diploma or general education equivalent (GED).
- (2) Develop preemployment skills.
- (3) Establish paternity for her young child whenever appropriate.
- (4) Obtain child support for the young child whenever paternity is established.

*e.* The agency shall maintain information in the mother's file on:

- (1) The involvement of the mother's parents or of other adults.
- (2) The involvement of the father of the minor's child, including steps taken to establish paternity, if appropriate.

(3) A decision of the minor to keep and raise her young child.

(4) Plan for the minor's completion of high school or a GED program.

(5) The parenting skills of the minor parent.

(6) Child care and transportation plans for education, training or employment.

(7) Ongoing health care of the mother and child.

(8) Other services as needed to address personal or family problems or to facilitate the personal growth and development toward economic self-sufficiency of the minor parent and young child.

*f.* The agency shall designate \$35 of the young child rate as an allowance to the mother to meet the maintenance needs of her young child, as defined in her case permanency plan.

This rule is intended to implement Iowa Code sections 234.6 and 234.38.

[ARC 7741B, IAB 5/6/09, effective 7/1/09; ARC 8715B, IAB 5/5/10, effective 7/1/10; ARC 9778B, IAB 10/5/11, effective 11/9/11]

**441—156.10(234) Payment for reserve bed days.**

**156.10(1) *Group care facilities.*** The department shall provide payment for group care maintenance and child welfare services according to the following policies.

*a. Family visits.* Reserve bed payment shall be made for days a child is absent from the facility for family visits when the absence is in accord with the following:

- (1) The visits shall be consistent with the child's case permanency plan.
- (2) The facility shall notify the worker of each visit and its planned length prior to the visit.
- (3) The intent of the department and the facility shall be for the child to return to the facility after the visit.
- (4) Staff from the facility shall be available to provide support to the child and family during the visit.

(5) Payment shall be canceled and payments returned if the facility refuses to accept the child back.

(6) If the department and the facility agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.

(7) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.

(8) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

(9) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

*b. Hospitalization.* Reserve bed payment shall be made for days a child is absent from the facility for hospitalization when the absence is in accord with the following:

(1) The facility shall contact the worker at least 48 hours in advance of a planned hospitalization and within 24 hours after an unplanned hospitalization.

(2) The intent of the department and the facility shall be for the child to return to the facility after the hospitalization.

(3) Staff from the facility shall be available to provide support to the child and family during the hospitalization.

(4) Payment shall be canceled and payments returned if the facility refuses to accept the child back.

(5) If the department and the facility agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.

(6) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.

(7) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

(8) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

*c. Runaways.* Reserve bed payment shall be made for days a child is absent from the facility after the child has run away when the absence is in accord with the following:

(1) The facility shall notify the worker within 24 hours after the child runs away.

(2) The intent of the department and the facility shall be for the child to return to the facility once the child is found.

(3) Payment shall be canceled and payments returned if the facility refuses to accept the child back.

(4) If the department and the facility agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.

(5) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.

(6) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

(7) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

*d. Preplacement visits.* Reserve bed payment shall be made when a child is making a planned preplacement visit to another foster care placement or an adoptive placement when the absence is in accord with the following:

- (1) The visits shall be consistent with the child's case permanency plan.
- (2) The intent of the department and the facility shall be for the child to return to the facility.
- (3) Staff from the facility shall be available to provide support to the child and provider during the visit.
- (4) Payment shall be canceled and payment returned if the facility refuses to accept the child back.
- (5) Payment shall not exceed two consecutive days.
- (6) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

**156.10(2) Foster family care.**

*a. Family visits.* Reserve bed payment shall be made for days a foster child is absent from the foster family home for family visits when the absence is in accord with the following:

- (1) The visits shall be consistent with the child's case permanency plan.
- (2) The intent of the department and the foster family shall be for the child to return to the foster family home after the visit.
- (3) Payment shall be canceled and payments returned if the foster family refuses to accept the child back.
- (4) If the department and the foster family agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
- (5) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
- (6) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

*b. Hospitalization.* Reserve bed payment shall be made for days a foster child is absent from the foster family home for hospitalization when the absence is in accord with the following:

- (1) The intent of the department and the foster family shall be for the child to return to the foster family home after the hospitalization.
- (2) Payment shall be canceled and payments returned if the foster family refuses to accept the child back.
- (3) If the department and the foster family agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
- (4) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
- (5) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

*c. Runaways.* Reserve bed payment shall be made for days a foster child is absent from the foster family home after the child has run away when the absence is in accord with the following:

- (1) The foster family shall notify the worker within 24 hours after the child runs away.
- (2) The intent of the department and the foster family shall be for the child to return to the foster family home once the child is found.
- (3) Payment shall be canceled and payments returned if the foster family refuses to accept the child back.
- (4) If the department and the foster family agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
- (5) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
- (6) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.

*d. Preplacement visits.* Reserve bed payment shall be made when a foster child is making a planned preplacement visit to another foster care placement or an adoptive placement when the absence is in accord with the following:

- (1) The visits shall be consistent with the child's case permanency plan.
- (2) The intent of the department and the foster family home shall be for the child to return to the foster family home.
- (3) Payment shall be canceled and payment returned if the foster family home refuses to accept the child back.
- (4) Payment shall not exceed two consecutive days.

**156.10(3) Shelter care facilities.**

*a. Hospitalization.* Reserve bed payment shall be made for days a child is absent from the facility for hospitalization when the absence is in accord with the following:

- (1) The facility shall contact the worker at least 48 hours in advance of a planned hospitalization and within 24 hours after an unplanned hospitalization.
- (2) The intent of the department and the facility shall be for the child to return to the facility after the hospitalization.
- (3) Staff from the facility shall be available to provide support to the child and family during the hospitalization.
- (4) Payment shall be canceled and payments returned if the facility refuses to accept the child back.
- (5) If the department and the facility agree that the return would not be in the child's best interest, payment shall be canceled effective the day after the joint decision not to return the child.
- (6) Payment shall be canceled effective the day after a decision is made by the court or parent in a voluntary placement not to return the child.
- (7) Payment shall not exceed 14 consecutive days, except upon prior written approval of the service area manager. In no case shall payment exceed 30 consecutive days.
- (8) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

*b. Preplacement visits.* Reserve bed payment shall be made when a child is making a planned preplacement visit to another foster care placement or an adoptive placement when the absence is in accord with the following:

- (1) The visits shall be consistent with the child's case permanency plan.
- (2) The intent of the department and the facility shall be for the child to return to the facility.
- (3) Staff from the facility shall be available to provide support to the child and provider during the visit.
- (4) Payment shall be canceled and payment returned if the facility refuses to accept the child back.
- (5) Payment shall not exceed two consecutive days.
- (6) The provider shall document the use of reserve bed days in the daily log and report the number of reserve bed days claimed in the quarterly report.

This rule is intended to implement Iowa Code sections 234.6 and 234.35.

[ARC 8010B, IAB 7/29/09, effective 10/1/09]

**441—156.11(234) Emergency care.**

**156.11(1) and 156.11(2)** Rescinded IAB 3/11/09, effective 5/1/09.

**156.11(3) Shelter care payment.** Public and private juvenile shelter care facilities approved or licensed in Iowa shall be paid according to the rate-setting methodology in 441—paragraph 150.3(5)“p.”

*a.* Facilities shall bill for actual units of service provided in accordance with 441—subrule 150.3(8). In addition, facilities may be guaranteed a minimum level of payment to the extent determined by the department through a request-for-proposal process.

- (1) Guaranteed payment shall be calculated monthly.
- (2) The guaranteed level of payment shall be calculated by multiplying the number of beds for which payment is guaranteed by the number of days in the month.

(3) When the actual unit billings for a facility do not equal the guaranteed level of payment for the month, the facility may submit a supplemental billing for the deficiency.

(4) The amount of the supplemental billing shall be determined by multiplying the facility's unit cost for shelter care by the number of units below the guaranteed level for the month for which the facility was not reimbursed.

b. The total reimbursement to the agency shall not exceed the agency's allowable costs as defined in 441—subrule 150.3(5). Agencies shall refund any payments which have been made in excess of the agencies' allowable costs.

c. Shelter contracts for the state fiscal year beginning July 1, 2007, shall provide for the statewide availability of a daily average of 273 guaranteed emergency juvenile shelter care beds during the fiscal year.

This rule is intended to implement Iowa Code section 234.35.  
[ARC 7606B, IAB 3/11/09, effective 5/1/09]

**441—156.12(234) Supervised apartment living.**

**156.12(1) Maintenance.** Effective July 1, 2011, when a child at least aged 16½ but under the age of 20 is living in a supervised apartment living situation, the monthly maintenance payment for the child shall be \$750. This payment may be paid to the child or another payee, other than a department employee, for the child's living expenses.

**156.12(2) Service.** When services for a youth in supervised apartment living are purchased, the service components and number of hours purchased shall be specified by the service worker in the youth's case permanency plan.

This rule is intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

[ARC 8451B, IAB 1/13/10, effective 1/1/10; ARC 8653B, IAB 4/7/10, effective 5/12/10; ARC 9778B, IAB 10/5/11, effective 11/9/11]

**441—156.13(234) Excessive rates.** Rescinded IAB 6/9/93, effective 8/1/93.

**441—156.14(234,252C) Voluntary placements.** When placement is made on a voluntary basis, the parent or guardian shall complete and sign Form 470-0715, Voluntary Placement Agreement.

**441—156.15(234) Child's earnings.** Earned income of a child who is not in a supervised apartment living arrangement and who is a full-time student or engaged in an educational or training program shall be reported to the department and its use shall be a part of a plan for service, but the income shall not be used towards the cost of the child's care as established by the department. When the earned income of children in supervised apartment living arrangements or of other children exceeds the foster care standard, the income in excess of the standard shall be applied to meet the cost of the child's care. When the income of the child exceeds twice the cost of maintenance, the child shall be discontinued from foster care.

**441—156.16(234) Trust funds and investments.**

**156.16(1)** When the child is a beneficiary of a trust and the proceeds therefrom are not currently available, or are not sufficient to meet the child's needs, the worker shall assist the child in having a petition presented to the court requesting release of funds to help meet current requirements. When the child and responsible adult cooperate in necessary action to obtain a ruling of the court, income shall not be considered available until the decision of the court has been rendered and implemented. When the child and responsible adult do not cooperate in the action necessary to obtain a ruling of the court, the trust fund or investments shall be considered as available to meet the child's needs immediately. When the child or responsible adult does not cooperate within 90 days in making the income available the maintenance payment shall be terminated.

**156.16(2)** The Iowa department of human services shall be payee for income from any trust funds or investments unless limited by the trust.

**156.16(3)** Savings accounts from any income and proceeds from the liquidation of securities shall be placed in the child's account maintained by the department and any amount in excess of \$1,500 shall be applied towards cost of the child's maintenance.

This rule is intended to implement Iowa Code section 234.39.

**441—156.17(234) Preadoptive homes.** Payment for a foster child placed in a preadoptive home shall be limited to the amount negotiated pursuant to rule 441—201.5(600) and shall not exceed the foster care maintenance amount paid in family foster care.

This rule is intended to implement Iowa Code section 234.38.

[ARC 8010B, IAB 7/29/09, effective 10/1/09]

**441—156.18(237) Foster parent training expenses.** Rescinded IAB 7/29/09, effective 10/1/09.

**441—156.19(237) Rate of payment for care in a residential care facility.** When a child is receiving group care maintenance and child welfare services in a licensed residential care facility and is not eligible for supplemental security income or state supplementary assistance, the department will pay for the group care maintenance and child welfare services in accordance with subrule 156.9(1). When a child receives group care maintenance and child welfare services in a licensed residential care facility and is eligible for supplemental security income or state supplementary assistance, the department will pay for child welfare services in accordance with subrule 156.9(1).

This rule is intended to implement Iowa Code section 237.1(3) "e."

**441—156.20(234) Eligibility for foster care payment.**

**156.20(1) Client eligibility.** Foster care payment shall be limited to the following populations.

*a.* Youth under the age of 18 shall be eligible based on legal status, subject to certain limitations.

(1) Legal status. The youth's placement shall be based on one of the following legal statuses:

1. The court has ordered foster care placement pursuant to Iowa Code section 232.52, subsection 2, paragraph "d," Iowa Code section 232.102, subsection 1, Iowa Code section 232.117, or Iowa Code section 232.182, subsection 5.

2. The child is placed in shelter care pursuant to Iowa Code section 232.20, subsection 1, or Iowa Code section 232.21.

3. The department has agreed to provide foster care pursuant to rule 441—202.3(234).

(2) Limitations. Department payment for group care shall be limited to placements which have been authorized by the department and which conform to the service area group care plan developed pursuant to rule 441—202.17(232). Payment for an out-of-state group care placement shall be limited to placements approved pursuant to 441—subrule 202.8(2).

*b.* Youth aged 18 and older who meet the definition of child in rule 441—202.1(234) shall be eligible based on age, a voluntary placement agreement pursuant to 441—subrule 202.3(3), and type of placement.

(1) Except as provided in subparagraph 156.20(1) "b" (3), payment for a child who is 18 years of age shall be limited to family foster care or supervised apartment living.

(2) Except as provided in subparagraph 156.20(1) "b" (3), payment for a child who is 19 years of age shall be limited to supervised apartment living.

(3) Exceptions. An exception to subparagraphs (1) and (2) shall be granted for all unaccompanied refugee minors. The service area manager or designee shall grant an exception for other children when the child meets all of the following criteria. The child's eligibility for the exception shall be documented in the case record.

1. The child does not have mental retardation. Funding for services for persons with mental retardation is the responsibility of the county or state pursuant to Iowa Code section 222.60.

2. The child is at imminent risk of becoming homeless or of failing to graduate from high school or obtain a general equivalency diploma. "At imminent risk of becoming homeless" shall mean that a less restrictive living arrangement is not available.

3. The placement is in the child's best interests.



4. Funds are available in the service area's allocation. When the service area manager has approved payment for foster care pursuant to this subparagraph, funds which may be necessary to provide payment for the time period of the exception, not to exceed the current fiscal year, shall be considered encumbered and no longer available. Each service area's funding allocation shall be based on the service area's portion of the total number of children in foster care on March 31 preceding the beginning of the fiscal year, who would no longer be eligible for foster care during the fiscal year due to age, excluding unaccompanied refugee minors.

c. A young mother shall be eligible for the extra payment for her young child living with her in care as set forth in subrule 156.6(4), paragraph "a," and subrule 156.9(4) if all of the following apply:

- (1) The mother is placed in foster care.
- (2) The mother's custodian determines, as documented in the mother's case permanency plan, that it is in her best interest and the best interest of the young child that the child remain with her.
- (3) A placement is available.
- (4) The mother agrees to refund to the department any child support payments she receives on behalf of the child and to allow the department to be made payee for any other unearned income for the child.

**156.20(2) Provider eligibility for payment.**

a. Providers of shelter care services and supervised apartment living services shall have a purchase of service contract under 441—Chapter 150 in force.

b. Providers of group care services shall have a foster group care services contract under 441—Chapter 152 in force.

This rule is intended to implement Iowa Code sections 232.143, 234.35 and 234.38.

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<sup>1</sup> Effective date of 3/1/92 delayed until adjournment of the 1992 General Assembly by the Administrative Rules Review Committee at its meeting held February 3, 1992.



CHAPTER 158  
FOSTER HOME INSURANCE FUND

PREAMBLE

These rules implement the provisions of the foster home insurance fund. These rules define eligible claims, the payment limits for claims, the procedure for filing claims, and the time frames for filing claims.

**441—158.1(237) Payments from the foster home insurance fund.**

**158.1(1) *Eligible foster family claims.*** The foster home insurance fund shall pay the following within the limits defined in Iowa Code section 237.13, subsections 3 and 4:

*a.* Valid and approved claims of family foster care children, their parents, guardians or guardians ad litem.

*b.* Compensation to licensed foster families for property damage, at replacement cost, or for bodily injury, as a result of the activities of the family foster care child.

*c.* Reasonable and necessary legal fees incurred by licensed foster families in defense of civil claims filed pursuant to Iowa Code section 237.13, subsection 7, paragraph “d,” and any judgments awarded as a result of these claims. The reasonableness and necessity of legal fees shall be determined by the department or its contract agent.

**158.1(2) *Eligible guardian and conservator claims.*** Rescinded IAB 10/5/11, effective 11/9/11.  
[ARC 9779B, IAB 10/5/11, effective 11/9/11]

**441—158.2(237) Payment limits.** The fund is not liable for the first \$100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for damages in excess of \$300,000 for all claims arising out of one or more occurrences during a fiscal year related to a single home.

[ARC 9779B, IAB 10/5/11, effective 11/9/11]

**441—158.3(237) Claim procedures.** Claims against the fund shall be filed with the department’s contractor. If the department does not have a contractor, claims shall be filed on Form 470-2470, Foster Home Insurance Fund Claim. The decision to approve or deny the claim shall be made by the department or its contractor and the notice mailed or given to the claimant within 180 days of the date the claim is received.

**441—158.4(237) Time frames for filing claims.**

**158.4(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence or after the child’s eighteenth birthday, but before the child’s nineteenth birthday.

**158.4(2)** Claims by persons who were aged 18 or older at the time of the occurrence shall be submitted within two years of the occurrence.

**158.4(3)** Claims by foster parents pursuant to paragraph 158.1(1) “c” for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

[ARC 9779B, IAB 10/5/11, effective 11/9/11]

**441—158.5(237) Appeals.** Claimants dissatisfied with the decision may request a fair hearing under the provisions of 441—Chapter 7.

These rules are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

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## PUBLIC HEALTH DEPARTMENT[641]

Rules of divisions under this department “umbrella” include Substance Abuse[643], Professional Licensure[645], Dental Examiners[650], Medical Examiners[653], Nursing Board[655] and Pharmacy Examiners[657]

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CHAPTER 55  
ADVISORY COUNCIL ON BRAIN INJURIES  
[Prior to 9/30/92, see Persons with Disabilities Division[431] Ch 3]

**641—55.1(135) Definitions.** For the purposes of this chapter, the following definitions shall apply:

*“Appointed members”* means members of the advisory council on brain injuries who have been appointed by the governor’s office.

*“Brain injury”* means a brain injury as defined in Iowa Code section 135.22.

*“Chairperson”* means the chairperson of the advisory council on brain injuries, who has been elected by the majority of the council’s members.

*“Council”* means the advisory council on brain injuries.

*“Department”* means the Iowa department of public health.

*“Ex officio members”* means designated state agency staff who are statutory members of the advisory council on brain injuries.

*“Person from the public”* means a person or agency who does not have an affiliation with the advisory council on brain injuries but who has knowledge or skills beneficial to the council for specific task forces or projects.

*“Service partners”* means representatives of organizations who partner with the Iowa department of public health or the advisory council on brain injuries to carry out activities related to the mission of the council.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.2(135) Mission of council.** The council’s mission is to represent individuals with brain injury, their families, and all Iowans through advocacy, education, training, rehabilitation, research and prevention. By means of these efforts, the council brings about awareness to others and serves as a source of hope and healing to survivors of brain injury. The council will accomplish this mission through the following activities:

1. Studying the needs of individuals with brain injury and their families.
2. Making recommendations regarding the planning, development, and administration of a comprehensive statewide service delivery system.
3. Promoting and implementing injury prevention strategies.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.3(135) Council established.** The advisory council on brain injuries, part of the Iowa department of public health, is established pursuant to Iowa Code section 135.22A.

**55.3(1)** The council shall consist of a minimum of nine appointed members in addition to the ex officio members.

*a.* The following persons or their designees shall serve as ex officio, nonvoting members of the council:

- (1) The director of public health.
- (2) The director of human services and any division administrators of the department of human services so assigned by the director.
- (3) The director of the department of education.
- (4) The chief of the special education bureau of the department of education.
- (5) The administrator of the division of vocational rehabilitation services of the department of education.
- (6) The director of the department for the blind.
- (7) The commissioner of insurance.

*b.* Appointed members.

(1) Insofar as practicable, the council shall include persons with brain injuries; family members of persons with brain injuries; representatives of industry, labor, business, and agriculture; representatives of federal, state, and local government; and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations.

(2) Members shall be appointed to represent every geographic area of the state and shall include members of both sexes.

**55.3(2)** Appointed members' terms shall be for two years.

**55.3(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

**55.3(4)** Members whose terms expire may be reappointed.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.4(135) Officers.**

**55.4(1)** Officers of the council shall be a chairperson, vice-chairperson and immediate past chairperson.

a. The officers shall be elected at the first meeting of each fiscal year.

b. Vacancy in the office of chairperson shall be filled by elevation of the vice-chairperson.

c. Vacancy in the office of vice-chairperson shall be filled by election at the next meeting after the vacancy occurs.

**55.4(2)** Duties of the officers.

a. The chairperson shall:

(1) Preside at all meetings of the council,

(2) Appoint such task forces as deemed necessary, and

(3) Designate the chairperson of each task force from the appointed members of the council.

b. The vice-chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice-chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

c. The immediate past chairperson shall:

(1) Assist the chairperson at the first meeting of the chairperson's appointment.

(2) Perform the duties of the chairperson if the chairperson and vice-chairperson are absent or unable to act. When so acting, the immediate past chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(3) Assist with note taking if there is no council staff person available.

(4) Assist the chairperson to identify council business and necessary task force meetings.

**55.4(3)** The officers shall serve until their successors are appointed.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.5(135) Duties of the council.** The council shall perform the following duties:

**55.5(1)** Promote meetings and programs for the discussion of methods to reduce the debilitating effects of brain injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by brain injuries.

**55.5(2)** Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution of personnel and resources in the provision of services to persons with brain injuries through private and public residential facilities, day programs, and other specialized services.

**55.5(3)** Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with brain injuries in Iowa.

**55.5(4)** Make recommendations to the governor for developing and administering a state plan to provide services for persons with brain injuries in Iowa.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.6(135) Meetings.**

**55.6(1)** The council shall meet at least quarterly.

*a.* The annual meeting schedule shall be established by the beginning of the fiscal year.

*b.* Meetings will be held the following months: January, April, July and October.

**55.6(2)** Notice of routine meetings and agenda will be made available to the members a minimum of five working days prior to the meeting.

**55.6(3)** Meetings may be scheduled as business requires, but notice must be given to members at least five working days prior to the meeting.

**55.6(4)** All meetings will be held in facilities accessible to and functional for people with physical disabilities.

**55.6(5)** Notification for reasonable accommodations should be made to department staff at least three working days prior to the meeting.

**55.6(6)** All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**55.6(7)** Cameras and recording devices may be used at open meetings, provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use if it is obstructing the meeting.

**55.6(8)** The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

**55.6(9)** The operation of council meetings will be governed by the following rules of procedure:

*a.* A simple majority of the appointed members shall constitute a quorum. Motions may not be made without a quorum.

*b.* When a quorum is present, a motion is carried by affirmative vote of two-thirds of appointed members present.

*c.* Time for public comment will be made during each council meeting.

**55.6(10)** Meeting attendance.

*a.* Council members are expected to be present in person for council meetings with the exception of extenuating circumstances that have been cleared beforehand by the chairperson.

*b.* Any council member who is unable to attend a meeting will notify council staff at least 24 hours prior to the start of a regularly scheduled meeting. A meeting may be canceled if attendance is expected to be low.

*c.* If there are extenuating circumstances, a teleconference may be set up for the member to participate in the business portion of the meeting.

*d.* Appointed members may be recommended for dismissal from the council if they miss more than three meetings annually.

**55.6(11)** Special meetings. Special meetings shall be for business of the council that cannot wait until the next scheduled meeting.

*a.* Special meetings may be called by the chairperson to discuss emergent issues within a 24-hour time period.

*b.* A majority of council members may call a special meeting.

*c.* Special meetings shall be held in accordance with Iowa Code chapter 21.

**55.6(12)** Electronic meetings.

*a.* The council may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical, pursuant to Iowa Code section 21.8.

*b.* Any vote by E-mail shall have the tabulated results presented at the next regular meeting of the council and the ballots retained for a period of six months for confirmation of results.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.7(135) Minutes.** The advisory council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

**55.7(1)** The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

**55.7(2)** If a meeting is convened within a 24-hour time period to discuss emergent issues, the minutes shall reflect the emergent nature of the meeting.

**55.7(3)** If a meeting is conducted via telephone, the minutes shall reflect the reason for the use of this method of meeting.

**55.7(4)** The minutes shall be available at the council staff office for inspection Monday through Friday from 8:30 a.m. to 4:30 p.m.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.8(135) Task forces.** The chairperson of the council may establish task forces as needed to carry out the business of the council.

**55.8(1)** The council will have two standing task forces: the executive task force and the state plan task force.

*a.* The executive task force shall be made up of the council chairperson, vice-chairperson, immediate past chairperson and chairperson of the state plan task force.

*b.* The state plan task force shall be made up of members appointed by the chairperson.

**55.8(2)** The council may designate additional task forces to perform such duties as may be deemed necessary.

**55.8(3)** Task forces may be composed of appointed members, ex officio members, service partners, and persons from the public.

**55.8(4)** The chairperson of each task force will be an appointed member of the council.

**55.8(5)** All members of task forces shall have voting privileges during task force meetings; however, all decisions made by task forces must be approved at the next regular council meeting by a vote of the appointed members.

**55.8(6)** Task force meetings shall be scheduled at least five working days prior to the meeting.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

**641—55.9(135) Expenses of advisory council members.** The following may be considered necessary expenses for reimbursement of advisory council members when the expenses are incurred on behalf of advisory council business and are subject to established state reimbursement rates:

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses, including sales tax on lodging and meals.
3. Actual expenses of public transportation.

[ARC 9772B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code section 135.22A.

[Filed 5/17/91, Notice 4/3/91—published 6/12/91, effective 7/17/91]

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[Filed ARC 9772B (Notice ARC 9631B, IAB 7/27/11), IAB 10/5/11, effective 11/9/11]



CHAPTER 77  
LOCAL BOARDS OF HEALTH  
[Prior to 7/29/87, Health Department[470] Ch 77]

**641—77.1(137) Purpose.** The local board of health shall have jurisdiction over public health matters within its designated geographic area in accordance with Iowa Code chapter 137. The local board of health shall promote and protect the health of the residents and shall carry out the powers of local boards as specified in Iowa Code sections 137.103 and 137.104 and all applicable Iowa Code chapters.  
[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.2(137) Definitions.** For the purpose of these rules, the following definitions apply:

*“Core public health functions”* means the functions of assessment, policy development, and assurance.

1. **Assessment:** Regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. **Policy development:** Development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and in accordance with state public health policy.

3. **Assurance:** Ensuring by encouragement, regulation, or direct action that programs and interventions that maintain and improve health are carried out.

*“County health department”* refers to the personnel and property under the jurisdiction of a county board.

*“Department”* means the Iowa department of public health.

*“District”* means any two or more geographically contiguous counties.

*“District board”* means a board of health representing at least two geographically contiguous counties formed with the approval of the department in accordance with Iowa Code chapter 137, or any district board of health in existence prior to July 1, 2010.

*“District health department”* refers to the personnel and property under the jurisdiction of a district board.

*“Environmental health services”* means services focused on the environment to support population-based health services.

*“Essential public health services”* means those activities carried out by public health that fulfill the core functions.

*“Iowa public health standards”* means the governmental public health standards adopted by rule by the state board of health.

*“Local board of health”* means a city, county, or district board of health.

*“Personal health services”* means services focused on the care of individuals.

*“Population-based health services”* means services focused on the health status of population groups and their environments.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.3(137) Local boards of health—roles and responsibilities.** Public health is responsible for safeguarding the community’s health. This goal is pursued through three core functions: assessment, policy development and assurance.

**77.3(1) Assessment:** Regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs, personal health services, and epidemiologic and other studies of health problems. A local board of health may perform the following essential public health services:

- a. Monitor health status to identify community health problems;
- b. Diagnose and investigate health problems and health hazards in the community; and
- c. Evaluate effectiveness, accessibility, and quality of personal, population-based, and environmental health services.

**77.3(2)** Policy development: Exercise responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

*a.* A local board of health may perform the following essential public health services:

- (1) Develop policies and plans that support individual and community health efforts; and
- (2) Research new insights and innovative solutions to health problems and health threats.

*b.* A local board of health shall perform the following essential public health services:

(1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;

(2) Make and enforce reasonable rules and regulations not inconsistent with the law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health; and

(3) Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

**77.3(3)** Assurance: Assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging action by other entities (private or public sector), by requiring such action through regulation, or by providing services directly. Each local board of health must involve key policymakers and the general public in determining a set of high-priority personal and population-based health services. A local board of health may perform the following essential public health services:

*a.* Link people to needed personal health services; provide such personal, population-based and environmental health services as deemed necessary for the promotion and protection of the health of the public; and charge reasonable fees for personal health services;

*b.* Ensure the competence of the public health, environmental health, and personal health care workforce;

*c.* Inform, educate, and empower people about health issues;

*d.* Mobilize community partnerships to identify and solve health problems;

*e.* Issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems;

*f.* Engage in joint operations by:

(1) Contracting with colleges and universities, the department, other public, private, and nonprofit agencies, and individuals; or

(2) Forming a district health department to provide personal and population-based health services; and

*g.* Enforce, by written agreement with the council of any city within its jurisdiction, appropriate ordinances of the city relating to public health.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.4(137) Local boards of health—Iowa public health standards.** Local boards of health may:

1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.

2. Demonstrate a commitment to comply with the Iowa public health standards.

3. Request at least annually reports from organizations that provide public health services within the jurisdiction.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.5(137) Organization of local boards of health.**

**77.5(1) Qualifications.** Members of a local board of health should have experience or education related to the core public health functions, essential public health services, public health, environmental health services, personal health services, population-based services, or community-based initiatives.

**77.5(2) *Officers of local boards of health.*** Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

*a.* The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.

*b.* In case of a vacancy of the office of chairperson, a successor, who shall serve the remainder of the term, shall be elected at the next meeting of the board.

**77.5(3) *Meetings of local boards of health.*** The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and such meetings shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

*a.* Each local board of health shall meet at least six times per year.

*b.* Special meetings of a local board of health may be called, as needed, by the chairperson or by any three board members. The local board of health shall provide at least 24 hours' notice of special meetings, except in case of emergency.

*c.* A majority of the members of a local board of health shall be considered a quorum, and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest, and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.6(137) Operation of local boards of health.** Local boards of health shall submit to the department the following information:

**77.6(1)** Names, addresses, E-mail addresses and telephone numbers of members of the local board of health, within one month after their appointment.

**77.6(2)** Names of the chairperson and any other officers elected by the local board of health, within one month after their election.

**77.6(3)** A copy of the minutes of each regular and special meeting of the local board of health, within two weeks of their being approved. The minutes shall include at least:

*a.* The date and place of the meeting;

*b.* A list of members present; and

*c.* A report of any official board actions.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.7(137) Expenses of local board of health members.**

**77.7(1)** The following may be considered necessary expenses of local board of health members:

*a.* Travel in private car on local board of health business at the same rate as provided for a public officer or employee in Iowa Code section 70A.9.

*b.* Lodging and meal expenses including sales tax on lodging and meals.

*c.* Expense of public transportation when traveling on local board of health business.

*d.* Miscellaneous expenses related to performance of duties as approved by the local board of health.

*e.* Training and education expenses.

**77.7(2)** This rule shall not be construed as requiring the payment of reimbursement to any person or as prohibiting local boards of health from imposing additional restrictions or administrative requirements on expenses of their members.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.8(137) District boards of health.** The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

**77.8(1)** A request to form a district board of health shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district.

**77.8(2)** A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

*a.* A written narrative that explains how the formation of a district board of health will increase organizational capacity and capability to provide population-based and personal health services compared with operating as local boards of health.

*b.* A written narrative that details the infrastructure capability of the proposed district board of health to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.

*c.* The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section 135.105 and the total number of members on the district board of health.

*d.* Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.

*e.* A service delivery plan to include each component of the public health standards. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.

*f.* The budget and fiscal plan for the proposed district health department. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.

*g.* A table of organization.

*h.* A personnel system description, including identification of the district health department treasurer and district health department auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.

*i.* The location of the district health department offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.

*j.* An inventory of the property and equipment in the custody of each county health department and a description as to whether such property and equipment shall remain in the custody of the county health department or shall be transferred to the district health department to become property of the district health department. Property and equipment include any item which costs more than \$5,000.

*k.* An information technology (IT) plan that details the formation of a centralized IT department able to serve the needs of the proposed district health department.

*l.* A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.9(137) Approval of district board of health formation.**

**77.9(1)** Upon receipt of the application form and all information contained in rule 641—77.8(137), the department shall review such information and shall determine, within 30 days, whether the required elements have been presented by the proposed district.

**77.9(2)** The department shall present its findings to the state board of health at the board's next regularly scheduled meeting, at which time the state board of health may approve formation of the district board of health.

**77.9(3)** The state board of health shall immediately provide notice of approval of district board of health formation, including effective dates, to the county board of health of each county in the district and to the board of supervisors of each county in the district.

**77.9(4)** Upon receipt of the notice of approval of district board of health formation, each appointing authority shall, prior to the effective date of district board of health formation, appoint district board of health members as specified in Iowa Code section 137.105.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.10(137) Denial of district board of health formation.** The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority

to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.

**77.10(1)** The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district board of health formation within 30 days of the decision.

**77.10(2)** The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

**77.10(3)** The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.11(137) Adding to a district board of health.** A county may be added to an existing district board of health by submission and approval of a request, as specified in Iowa Code sections 137.106 and 137.107.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

**641—77.12(137) Withdrawal from a district board of health.** A county may voluntarily withdraw from a district board of health by submitting a request for withdrawal to the department for approval. The request shall include a time line and plan to reestablish a county board of health or to join a different district board of health to provide the core public health functions and essential public health services to the county's geographic area.

**77.12(1)** If the request for withdrawal of the applicant county from the district board of health is approved by the state board of health, an effective date shall be set for the action, and notification shall be sent to the district board of health and the board of supervisors of the applicant county.

**77.12(2)** The ownership of property and equipment shall follow the guidelines submitted in the original request to form the district board of health.

**77.12(3)** The remaining counties in the district shall submit an application including the information specified in rule 641—77.8(137) to the department for review as provided in Iowa Code section 137.107.

[ARC 9773B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code chapter 137.

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CHAPTER 78  
DISTRICT HEALTH DEPARTMENTS  
[Prior to 7/29/87, Health Department[470] Ch 78]  
Rescinded IAB 10/5/11, effective 11/9/11

CHAPTER 79  
PUBLIC HEALTH NURSING  
[Prior to 7/29/87, Health Department[470] Ch 79]  
Rescinded IAB 4/11/07, effective 7/1/07; see 641—Ch 80





CHAPTER 82  
OFFICE OF MINORITY AND MULTICULTURAL HEALTH

**641—82.1(135) Purpose.** The office of minority and multicultural health exists to actively promote and facilitate health equity for Iowa's multicultural communities.  
[ARC 9775B, IAB 10/5/11, effective 11/9/11]

**641—82.2(135) Definitions.** For purposes of this chapter, the following definitions apply:

*"Community"* is defined as a group of people living in the same locality and under the same government or a group viewed as forming a distinct segment of society.

*"Continual cultural competency"* is defined as a set of congruent behaviors, attitudes and policies that come together as a system or an agency or among professionals and that enable that system or agency or those professionals to work effectively in cross-cultural situations.

*"Department"* means the Iowa department of public health.

*"Director"* means the director of the department of public health.

*"Disparity"* is defined as the condition or fact of being unequal.

*"Diverse"* is defined as made up of distinct characteristics, qualities or elements.

*"Immigrant"* is defined as a person who leaves one country to settle permanently in another.

*"Minority"* is defined as a part of a population differing from others in one or more characteristics and often subjected to differential treatment. Racial and ethnic minorities are classified as people of African descent (African-American/Black), Hispanic/Latino descent, Asian/Pacific Islander descent, Native American descent, and refugees and immigrants.

*"Multicultural"* is inclusive of communities of racial, ethnic or linguistic diversity.

*"Refugee"* is defined as one who flees in search of refuge, as in times of war, political oppression, or religious persecution.

**641—82.3(135) Responsibilities of the office of minority and multicultural health.** The purpose of the office is to improve the health of racial and ethnic minorities by bridging communication, delivery and service requirements and by providing customized services and practical approaches to problems and issues encountered by organizations and communities working to address the needs of these populations. The office of minority and multicultural health shall provide public health leadership regarding existing or potential issues or practices that can or could affect the health status of racial, ethnic, and linguistic multicultural individuals and families, immigrants and refugees. The office shall provide this leadership through the core functions of (1) education; (2) advocacy; (3) data management; (4) technical assistance and consultation; and (5) training and development. The office is responsible for the following:

**82.3(1)** Promoting continuous cultural competency in health care practice and education throughout Iowa's public health care sector;

**82.3(2)** Collecting and providing valid empirical information on the health status of multicultural groups in Iowa;

**82.3(3)** Advocating for the development of policies and programs that improve the health of Iowa's racially, ethnically and linguistically diverse populations and addressing health disparities that exist within these populations;

**82.3(4)** Providing technical planning assistance to communities and counties throughout the state and promoting community strategic planning;

**82.3(5)** Serving as the liaison and advocate for the department on minority and multicultural health matters and advocating for Iowa's racial, ethnic, and linguistic multicultural communities;

**82.3(6)** Creating and promoting a climate of inclusiveness in the public health sector on state, regional and local levels by partnering with the office's racial, ethnic, and linguistic multicultural constituents in Iowa to help them improve their collective health status;

**82.3(7)** Promoting the Iowa public health standards and providing technical assistance and consultation regarding state and local criteria relating to disparate populations and delivery of culturally appropriate services; and

**82.3(8)** Reviewing the impact of programs, regulations and health care resource policies on the delivery of and access to minority and multicultural health services.  
[ARC 9775B, IAB 10/5/11, effective 11/9/11]

**641—82.4(135) Advisory council.** A minority and multicultural health advisory council shall be established within the department.

**82.4(1) Membership.** The council shall be composed of no more than 15 voting members appointed by the director.

*a.* Membership shall include the following:

- (1) One representative from each of the six local public health service regions;
- (2) One representative from the Meskwaki Settlement;
- (3) Public-sector representatives such as legislators and state commissioners;
- (4) Service-sector representatives such as representatives from the department of human services, local councils, education, and health care;
- (5) Private-sector representatives such as business leaders, representatives from grassroots, nonprofit, faith-based and volunteer organizations, and community leaders.

*b.* A term of appointment is three years, with no more than three consecutive terms. An exception for individual reappointment from organizations represented shall be determined by the director.

*c.* The advisory council shall elect a chairperson.

*d.* In the case of a vacancy, the chairperson shall notify the department of the need to appoint another representative. Vacancies shall be filled in the same manner as original appointments.

*e.* The advisory council may designate one or more subcommittees to have such powers and perform such duties as may be deemed necessary by the council.

**82.4(2) Duties.** The advisory council shall perform the following duties:

*a.* Provide advice and make recommendations on diverse racial, ethnic, and linguistic health issues to the department, the office of multicultural health, and policy makers;

*b.* Provide advice and make recommendations on public policies and practices that affect multicultural communities; and

*c.* Provide advice and make recommendations on funding that supports the activities of the office of multicultural health.

**82.4(3) Meetings.** The advisory council shall meet at least four times a year to conduct its business. Meetings may be scheduled more frequently as business requires.

*a.* Notice of meetings and agenda shall be made available to council members a minimum of five working days prior to the meeting.

*b.* The operation of council meetings shall be governed by the following rules of procedure:

- (1) A majority of the members of the council shall constitute a quorum.
- (2) Action can be taken by a vote of the majority of the members of the council.
- (3) Robert's Rules of Order shall govern at all meetings.

*c.* All meetings are open to the public in accordance with the open meetings law, found at Iowa Code chapter 21.

**82.4(4) Absences.** Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the advisory council member and to appoint another. The chairperson of the advisory council is charged with providing notification of absences.

**82.4(5) Minutes.** The advisory council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

*a.* The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

*b.* The minutes shall be provided to the members of the advisory council prior to the next scheduled meeting.

*c.* The minutes shall be available at the office of multicultural health for inspection Monday through Friday from 8:30 a.m. to 4:30 p.m. with the exception of holidays.

**82.4(6)** *Expenses of the council.* The following may be considered necessary expenses for reimbursement of advisory council members when incurred on behalf of advisory council business and are subject to established state reimbursement rates:

- a.* Reimbursement for travel in a private car.
- b.* Actual lodging and meal expenses, including sales tax on lodging and meals.
- c.* Actual expenses for public transportation.

[ARC 9775B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code section 135.12.

[Filed 5/14/08, Notice 3/26/08—published 6/4/08, effective 7/9/08]

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CHAPTER 155  
LICENSURE STANDARDS FOR SUBSTANCE ABUSE AND PROBLEM GAMBLING  
TREATMENT PROGRAMS

[Prior to 7/27/88, see Substance Abuse, Iowa Department of[805] Ch 3]

[Prior to 3/29/06, see 643—Ch 3]

**641—155.1(125,135) Definitions.** Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

*“Accreditation body”* means a national or not-for-profit body or organization recognized by the committee as meeting the criteria of the committee for deemed status.

*“Acute intoxication or withdrawal potential”* is a category to be considered in the ASAM-PPC-2R criteria. This category evaluates client/patient’s current status of intoxication and potential for withdrawal complications. Historical information about client/patient’s withdrawal patterns may also be considered.

*“Administration”* means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of a client/patient or research subject by one of the following:

1. A practitioner or the practitioner’s authorized agent.
2. The client/patient or research subject at the direction of a practitioner.

*“Admission”* means the point in an individual’s relationship with the program at which the screening process has been completed and the individual is entitled to receive treatment services.

*“Admission criteria”* means specific ASAM-PPC-2R criteria to be considered in determining appropriate client/patient placement and resultant referral to a level of care (substance abuse treatment only). Criteria vary in intensity and are organized into categories to be used by treatment programs for assessment, to determine appropriate level of care, and for treatment planning.

*“Affiliation agreement”* means a written agreement between the governing authority of the program and another organization under the terms of which specified services, space or personnel are provided to one organization by the other, but without exchange of moneys.

*“Applicant”* means any treatment program which has applied for a license or renewal thereof.

*“Application”* means the process through which a treatment program applies for a license or renewal as outlined in the application procedures.

*“ASAM-PPC-2R”* means the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, Revised.

*“Assessment”* means the ongoing process of identifying a diagnosis, ruling out other diagnoses, and determining the level of care needed by the client/patient.

*“Biomedical conditions and complications”* means one category to be considered in the ASAM-PPC-2R criteria. This category evaluates client/patient’s current physical condition. Historical information on client/patient’s medical/physical functioning may also be considered. This category includes biological and physical aspects of the medical assessment and treatment of a client/patient. Physical problems may be the direct result of a substance use disorder, or be independent of and interactive with such a disorder, thus affecting the total treatment plan and prognosis.

*“Board”* means the state board of health created pursuant to Iowa Code chapter 136.

*“Case management”* means the process of using predefined criteria to evaluate the necessity and appropriateness of client/patient care.

*“Chemical dependency”* means alcohol or drug dependence or psychoactive substance use disorder as defined by the current Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV), criteria or by other standardized and widely accepted criteria.

*“Chemical dependency rehabilitation services”* means those individual or group services that are directly related to chemical dependency or the individual treatment plan. These services include individual, group and family counseling, educational services, self-help groups and structured recreational activities. They do not include active employment or education courses beyond the secondary level.

*“Chemical substance”* means alcohol, wine, spirits and beer as defined in Iowa Code chapter 123 and controlled substances as defined in Iowa Code section 124.101.

*“Client/patient”* means an individual who is a substance abuser or a problem gambler or is chemically dependent, has been assessed as appropriate for services, and for whom screening procedures have been completed.

*“Clinical oversight”* means oversight provided by an individual who, by virtue of education, training and experience, is capable of assessing the psychosocial history of a client/patient to determine the most appropriate treatment plan. The person providing oversight shall be designated by the treatment program.

*“Clinically managed high-intensity residential services (Level III.5)”* means high-intensity residential services designed to address significant problems with living skills. The prime example of Level III.5 care is the therapeutic community, which provides a highly structured recovery environment in combination with moderate- to high-intensity professional clinical services to support and promote recovery. Client/patients must participate in at least 50 hours of structured chemical dependency rehabilitation services per week.

*“Clinically managed low-intensity residential services (halfway house) (Level III.1)”* means low-intensity professional addiction treatment services offered at least five hours per week. Treatment is directed toward applying recovery skills, preventing relapse, promoting personal responsibility and reintegrating the resident into the worlds of work, education and family life. The services may include individual, group and family therapy. Mutual/self-help meetings are available on site.

*“Clinically managed medium-intensity residential services (Level III.3)”* are frequently referred to as extended or long-term care. Level III.3 programs provide a structured recovery environment in combination with medium-intensity professional clinical services to support and promote recovery. Client/patients must participate in at least 30 hours of structured chemical dependency rehabilitation services per week.

*“Clinically managed services”* means clinically managed services in which treatment is directed by addiction specialists rather than by medical professionals. They serve residents whose problems in the area of emotional/behavioral concerns, treatment acceptance, relapse potential, or recovery environment are the primary focus of treatment and problems in the areas of intoxication/withdrawal (Dimension 1) and biomedical concerns (Dimension 2), if any, are minimal.

*“Committee”* means the substance abuse and gambling treatment program committee appointed by the state board of health pursuant to Iowa Code section 136.3(13). The committee shall consist of three board members who are recommended by the board chairperson and approved by the board, including two members who have direct experience with substance abuse treatment or prevention and one member who represents the general public. The committee chairperson shall be one of the members who has substance abuse treatment or prevention experience as recommended by the board chairperson and approved by the board.

*“Concerned family member”* or *“concerned person”* means an individual who is seeking treatment services due to problems arising from the person’s involvement or association with a substance abuser, chemically dependent individual, problem gambler or client/patient and who is negatively affected by the behavior of the substance abuser, chemically dependent individual, problem gambler or client/patient.

*“Continuing care”* means a Level I service of the ASAM-PPC-2R criteria, which provides a specific period of structured therapeutic involvement designed to enhance, facilitate and promote transition from primary care to ongoing recovery. There shall not be any required frequency of review for continuing care or frequency of review of treatment plan by client/patient and counselor.

*“Continuing service and discharge criteria”* means, in accordance with ASAM-PPC-2R, during the process of client/patient assessment, certain problems and priorities are identified as justifying admission to a particular level of care and the resolution of those problems and priorities determines when a client/patient can be treated at a different level of care or discharged from treatment. New problems may require services that can be provided effectively at the same level of care or may require a more intensive or less intensive level of care.

*“Continuum of care”* means a structure of interlinked treatment modalities and services designed so that a client/patient’s changing needs will be met as the client/patient moves through the treatment and recovery process.

*“Contract”* means a formal legal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel or space to be provided to the program as well as the moneys to be expended in the exchange.

*“Counselor”* means an individual who, by virtue of education, training or experience, provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore the person’s problems related directly or indirectly to substance abuse, chemical dependence or problem gambling.

*“Culturally and environmentally specific”* means integrating into the assessment and treatment process the ideas, customs, beliefs, and skills of a given population, as well as an acceptance, awareness, and celebration of diversity regarding conditions, circumstances and influences surrounding and affecting the development of an individual or group.

*“Deemed status”* means that the committee and division will accept a committee-approved, outside accreditation body’s review, assessment and accreditation of a program, component or service of a program/organization’s operations and services. Programs which received deemed status approval are exempt from routine licensure requirements; however, such programs are subject to all other provisions of this chapter.

*“Department”* means the Iowa department of public health.

*“Designee”* means the staff person or counselor who is delegated tasks, duties and responsibilities normally performed by the treatment supervisor, treatment director or executive director.

*“Detoxification”* means the process of withdrawing a person from a specific psychoactive substance in a safe and effective manner. ASAM-PPC-2R detoxification levels of care include Levels I-D, II-D, III.2-D, III.7-D, and IV-D.

*“Director”* means the director of the Iowa department of public health.

*“Discharge planning”* means the process, begun at admission, of determining a client/patient’s continued need for treatment services and of developing a plan to address ongoing client/patient posttreatment needs. Discharge planning may or may not include a document identified as a discharge plan.

*“Division”* means the division of behavioral health.

*“Emergency admission”* means an admission due to an emergency situation with placement screening criteria being applied as soon after admission as possible.

*“Emotional, behavioral or cognitive conditions and complications”* is a category to be considered in the ASAM-PPC-2R criteria. This category evaluates client/patient’s current emotional, behavioral, and cognitive status. Emotional, behavioral or cognitive status may include, but is not limited to, psychiatric conditions, psychological or emotional/behavioral complications, poor impulse control, changes in mental status, or transient neuropsychiatric complications and the behavior that accompanies or follows these emotional states. Historical information on client/patient’s emotional/behavioral functioning may also be considered.

*“Evaluation”* means the process to evaluate the client/patient’s strengths, weaknesses, problems, and needs for the purpose of defining a course of treatment. This includes use of the standardized placement screening and any additional client/patient profile information and development of a comprehensive treatment plan.

*“Extended outpatient treatment”* means a Level I service of the ASAM-PPC-2R criteria, which is an organized, nonresidential service. Extended outpatient treatment services usually are provided in regularly scheduled sessions which include less than nine treatment hours a week for adults or less than six treatment hours a week for adolescents. For problem gambling client/patients, extended outpatient treatment services may be offered in conjunction with transitional housing.

*“Facility”* means a hospital, detoxification center, institution or program licensed under Iowa Code section 125.13 or 2009 Iowa Code Supplement section 135.150 providing care, maintenance and

treatment for client/patients. Facility also includes the physical areas such as grounds, buildings, or portions thereof under direct administrative control of the program.

*“Focused reviews”* means a survey conducted during the licensing process to assess the degree to which a program has improved its level of compliance relating to specific recommendations. The subject matter of the review is typically in area(s) of identified deficiency in compliance; however, other performance areas may also be assessed by a surveyor(s), including areas not covered in deemed status.

*“Follow-up”* means the process for determining the status of an individual who has been referred to an outside resource for services or who has been discharged from services.

*“Governing body”* means the individual(s), group, or agency that has ultimate authority and responsibility for the overall operation of the facility.

*“HIPAA”* means the Health Insurance Portability and Accountability Act of 1996.

*“Intake”* means gathering additional assessment information at the time of admission to services.

*“Intensive outpatient treatment (Level II.1)”* means intensive outpatient programs (IOP) that provide a minimum of nine hours for adults or a minimum of six hours for adolescents of structured programming per week, consisting primarily of counseling and education. For problem gambling client/patients, the service may be offered in conjunction with transitional housing.

*“Iowa board of certification”* means the professional certification board that certifies substance abuse counselors and prevention specialists, problem gambling treatment specialists and other addiction treatment specialists in the state of Iowa.

*“Levels of care”* is a general term that encompasses the different options for treatment that vary according to the intensity of the services offered. Each treatment option in the ASAM-PPC-2R is a level of care.

*“Licensee”* means any program licensed by the department.

*“Licensure”* means the issuance of a license by the department and the committee which validates the licensee’s compliance with treatment program standards and authorizes the licensee to operate a treatment program in the state of Iowa.

*“Licensure weighting report”* means the report that is used to determine the type of license a program qualifies for based on point values assigned to areas reviewed and total number of points attained. In addition, a minimum percent value in each of three categories shall be attained to qualify a program for a license as follows: 95 percent or better rating in clinical, administrative and programming for a three-year license; 90 percent or better rating in clinical, administrative and programming for a two-year license; or less than 90 percent but no less than 70 percent rating in clinical, administrative and programming for a one-year license. The determination of length of license for programs licensed through deemed status shall be made by the accreditation body.

*“Maintenance”* means the prolonged scheduled administration of methadone or other approved controlled substances intended as a substitute or antagonist to abused substances in accordance with federal and state regulations.

*“Management of care”* means the process to ensure the appropriate level of care is utilized by implementing ASAM-PPC-2R criteria during placement screening, continuing service and discharge. This process includes discharge planning that begins at admission to meet the immediate, ongoing and posttreatment needs of the client/patient.

*“May”* means a term used in the interpretation of a standard to reflect an acceptable method that is recognized but not necessarily preferred.

*“Medically managed intensive inpatient treatment (Level IV)”* is an organized ASAM-PPC-2R service staffed by designated addiction physicians or addiction credentialed clinicians. Level IV care involves a planned regimen of 24-hour medically directed evaluation, care and treatment of substance-related disorders in an acute-care inpatient setting. Such a service functions under a defined set of policies and procedures and has permanent facilities that include inpatient beds. Services involve daily medical care in which diagnostic and treatment services are directly provided by a licensed physician.

*“Medically monitored intensive inpatient treatment (Level III.7)”* is an organized ASAM-PPC-2R service delivered by an interdisciplinary staff to client/patients whose subacute biomedical and



emotional/behavioral problems are sufficiently severe to require inpatient care. Twenty-four-hour observation, monitoring and treatment are available. However, the full resources of an acute care general hospital or a medically managed inpatient treatment service system are not necessary. Services are provided by an interdisciplinary staff of nurses, counselors, social workers, addiction specialists and other health care professionals and technical personnel, under the direction of licensed physicians. Medical monitoring is provided through an appropriate mix of direct patient contact, review of records, team meetings, 24-hour coverage by a physician, and quality assurance programs.

*“Outreach”* means public speaking engagements and other similar activities and functions that inform the public of available programs and services offered by a treatment program. In addition, outreach is a process or series of activities that identifies individuals in need of services, engages them and links them with the most appropriate resource or service provider. Such activities may include, but are not limited to, the following: individual client/patient recruitment through street outreach and organized informational sessions at churches, community centers, recreational facilities, and community service agencies.

*“OWI”* means operating while intoxicated, in violation of Iowa Code chapter 321J.

*“Partial hospitalization (day treatment) (Level II.5)”* means a program which provides 20 or more hours of clinically intensive programming per week based on individual treatment plans. Programs have ready access to psychiatric, medical and laboratory services and thus are better able than Level II.1 programs to meet client/patient needs. Partial hospitalization/day treatment is a generic term encompassing day, night, evening and weekend treatment programs that employ an integrated, comprehensive and complementary schedule of recognized treatments.

*“Physician”* means any individual licensed under Iowa Code chapter 148, 150, or 150A.

*“Prevention”* means a proactive process to eliminate unnecessary disease, disability, and premature death caused by (1) acute disease, (2) chronic disease, (3) intentional or unintentional injury or disease associated with environmental, home and workplace hazards, and (4) controllable risk factors such as poor nutrition; lack of exercise; alcohol, tobacco, and other drug use; inadequate use of preventive health services; and other risk behaviors.

*“Primary care modality”* means a treatment component or modality including continuing care, halfway house, extended outpatient treatment, intensive outpatient treatment, primary extended residential treatment, medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment services.

*“Primary scope of practice”* means the area in which a counselor maintains a professional license or certification.

*“Prime programming time”* means any period of the day when special attention or supervision is necessary, for example, upon awakening in the morning until departure for school, during meals, after school, transition between activities, evenings and bedtime, or weekends and holidays, in order to maintain continuity of program and care. Prime programming time shall be defined by the facility.

*“Problem gambling”* means a pattern of gambling behavior which may compromise, disrupt or damage family, personal or vocational pursuits.

*“Program”* means any partnership, corporation, association, governmental subdivision or public or private organization.

*“Protected classes”* means classes of people who have required special legislation to ensure equality.

*“Quality improvement”* means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of client/patient care to improve client/patient care and resolve identified problems.

*“Readiness to change”* is a category to be considered in the ASAM-PPC-2R criteria. This category evaluates the client/patient’s current emotional and cognitive awareness of the need to change and level of commitment to change.

*“Recovery/living environment”* is a category to be considered in the ASAM-PPC-2R criteria. This category evaluates client/patient’s current recovery/living environment as it impacts on level of care decision making and treatment planning. Recovery/living environment may include, but is not limited to, current relationships and degree of support for recovery, current housing, employment situation, and

availability of alternatives. Historical information on client/patient's recovery/living environment may also be considered.

*"Recovery oriented system of care"* means person-centered and self-directed approaches to care that build on the strengths and resilience of individuals, families and communities to take responsibility for their sustained health, wellness, and recovery from mental illness, alcohol and drug problems, and problem gambling. A recovery oriented system of care offers a comprehensive menu of services and supports that can be combined and readily adjusted to meet the individual's needs and chosen pathway to recovery.

*"Rehabilitation"* means the restoration of a client/patient to the fullest physical, mental, social, vocational, and economic usefulness of which the client/patient is capable. Rehabilitation may include, but is not limited to, medical treatment, psychological therapy, occupational training, job counseling, social and domestic rehabilitation and education.

*"Relapse"* means progressive irresponsible, inappropriate and dysfunctional behavior patterns that could lead to resumption of alcohol or drug use or problem gambling. "Relapse" also refers to the resumption of alcohol or drug use or problem gambling.

*"Relapse, continued-use or continued-problem potential"* is a category to be considered in the ASAM-PPC-2R criteria. This category evaluates client/patient's current factors that contribute to relapse potential as it impacts on level of care decision making and treatment planning. Relapse potential may include, but is not limited to, current statements by client/patient about relapse potential, reports from others on potential for client/patient's relapse, and assessment by clinical staff. Historical information on client/patient's relapse potential may also be considered. This category may include the client/patient's understanding of skills in coping with addictive or mental disorders, recognition of relapse triggers, skills to control impulses and ways to cope with relapse potential.

*"Residential program"* means a 24-hour, live-in, seven-day-a-week treatment program facility offering intensive rehabilitation services to individuals who are considered unable to live or work in the community due to social, emotional, or physical disabilities resulting from substance abuse or problem gambling. The ASAM-PPC-2R levels of care may include III.1, III.3, III.5 or III.7.

*"Rule"* means each statement of general applicability that implements, interprets, or prescribes division law or policy, or that describes the organization procedure or practice requirements of the division. The term includes the amendment or repeal of existing rules as specified in the Iowa Code.

*"Screening"* means the process by which a client/patient is determined appropriate and eligible for admission to a particular program or level of care. The focus is on the minimum criteria necessary for appropriateness/eligibility.

*"Self-administration of medication"* means the process where a properly trained staff member observes a client/patient inject, inhale, ingest, or by any other means take, medication which has been prescribed by a licensed physician.

*"Shall"* means the term used to indicate a mandatory statement, the only acceptable method under the present standards.

*"Should"* means the term used in the interpretation of a standard to reflect the commonly accepted method, yet allowing for the use of effective alternatives.

*"Sole practitioner"* means an individual incorporated under the laws of the state of Iowa, or an individual in private practice who is providing substance abuse treatment services independent from a program that is required to be licensed in accordance with Iowa Code section 125.13(1).

*"Specialized certification"* means a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.

*"Staff"* means any individual who provides services to the treatment program on a regular basis as a paid employee, agent or consultant or as a volunteer.

*"Standards"* means specifications representing the minimal characteristics of a treatment program which are acceptable for the issuance of a license.

*"Subspecialty"* means a secondary scope of practice, either substance abuse treatment or problem gambling treatment, approved in accordance with these rules. To maintain expertise within the

subspecialty, the counselor shall complete a minimum of an additional 20 hours of training within the subspecialty every two years.

*“Substance abuser”* means a person who habitually lacks self-control as to the use of chemical substances or uses chemical substances to the extent that the person’s health is substantially impaired or endangered or that the person’s social or economic function is substantially disrupted.

*“Time frames”* means the period of time within which the assessment and treatment plan must be completed after admission, frequency of review of the treatment plan by the client/patient and counselor, and frequency of reviews for continuing service and discharge. The time frames for Levels I and III.1 shall be every 30 days; for Levels II.1, II.5, III.3 and III.5, every 7 days; and for Levels III.7 and IV, daily. For Level I continuing care/aftercare, there shall not be any required frequency of review for continuing service or frequency of review of treatment plan by client/patient and counselor.

*“Transitional housing”* means housing that may be offered to individuals who are problem gamblers and who have no other housing alternatives or whose housing alternatives are not conducive to problem gambling recovery. Problem gamblers receiving transitional housing must also be receiving problem gambling treatment services.

*“Treatment”* means the broad range of planned and continuing inpatient, outpatient, and residential care services, including diagnostic evaluation, counseling, and medical, psychiatric, psychological, and social service care, which may be extended to substance abusers, problem gamblers, concerned persons, concerned family members, or significant others. Treatment is geared toward influencing the behavior of such individuals to achieve a state of rehabilitation.

*“Treatment days”* means days in which the treatment program is open for services or actual working days.

*“Treatment planning”* means the process by which a counselor and client/patient identify and rank problems, establish agreed-upon goals, and decide on the treatment process and resources to be utilized.

*“Treatment program”* means a program licensed under these rules. A treatment program may be a substance abuse treatment program, a problem gambling treatment program, or a substance abuse and problem gambling treatment program.

*“Treatment supervisor”* means an individual who, by virtue of education, training or experience, is capable of assessing the psychosocial history of a client/patient to determine the treatment plan most appropriate for the client/patient. This person shall be designated by the treatment program.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.2(125,135) Licensing.** A single license will be issued to each qualifying treatment program. A program shall apply for a license to provide substance abuse treatment, problem gambling treatment, or combined substance abuse and problem gambling treatment.

**155.2(1) Categories of services.** The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. The categories of services for which licenses will be issued are:

- a. Narcotic detoxification/chemical substitute, antagonist maintenance chemotherapy;
- b. Assessment and evaluation;
- c. OWI correctional residential;
- d. OWI correctional outpatient;
- e. Correctional residential treatment;
- f. Correctional outpatient treatment;
- g. Medically managed intensive inpatient services: Level IV;
- h. Residential/inpatient services: Levels III.1, III.3, III.5 and III.7;
- i. Intensive outpatient/partial hospitalization services: Levels II.1 and II.5; and
- j. Outpatient extended and continuing care services: Level I.

**155.2(2) Licensing body.** The committee shall:

- a. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension, or revocation of a license;

b. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on the department by law;

c. Advise or make recommendations to the board relative to substance abuse and gambling treatment, intervention, education, and prevention programs in this state; and

d. Perform other duties as assigned by the board.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.3(125,135) Type of licenses.**

**155.3(1) Issuance of licenses.**

a. Licenses may be issued for up to three years. A license may be renewed for one, two, or three years. An initial license may be issued for 270 days. A license issued for 270 days shall not be renewed or extended.

b. Licenses shall expire one or two calendar years from the date of issue, and a renewal of the license shall be issued only on application.

c. The renewal of a one-year or two-year license shall be contingent upon demonstration of continued compliance with licensure standards and in accordance with the licensure weighting report criteria.

d. The renewal of a three-year license shall be contingent upon demonstration of substantial continued compliance with licensure standards and in accordance with the licensure weighting report criteria or continuation in deemed status.

e. Failure to apply for renewal of the license within 30 days after the expiration date shall result in immediate termination of license and require reapplication.

**155.3(2) Corrective action.** Following the issuance of a license, the treatment program may be requested by the committee to provide a written plan of corrective action and to bring into compliance all areas found in noncompliance during the on-site visit. The corrective action plan shall be placed in the program's permanent file with the division and used as reference during future on-site inspections.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.4(125,135) Nonassignability; program closure.**

**155.4(1)** A license issued by the department for the operation of a treatment program applies both to the applicant program and the premises upon which the program is to be operated. Licenses are not transferable.

**155.4(2)** A discontinued program is one which has terminated the services for which it has been licensed. When a program is discontinued, its current license is void immediately and shall be returned to the department.

**155.4(3)** Any person or other legal entity acquiring a licensed facility for the purpose of operating a treatment program shall apply for a new license.

**155.4(4)** Any person or legal entity having acquired a license and desiring to fundamentally alter the treatment philosophy or transfer to a different premises must notify the committee 30 days prior to said action in order for the department to review the site change and to determine appropriate action.

**155.4(5)** A licensee shall, if possible, notify the department of impending closure of the licensed program at least 30 days prior to such closure. The licensee shall be responsible for the removal and placement of client/patients and for the preservation of all records. Upon closing all facilities and terminating all service delivery activities, the licensee shall immediately return the license to the department.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.5(125,135) Application procedures.** The department shall provide an application to all applicants for licensure. An on-site visit for licensure of an initial applicant shall occur before the program opens and admits client/patients for services. For initial applicants, if technical assistance has been provided, the on-site visit may be waived at the discretion of the department. The division shall prepare a report with a recommendation for licensure to be presented at a committee meeting within 60 days from the site visit. Public notice for committee meetings will be made in accordance

with Iowa Code section 21.4. The division shall provide notice to the program ten days prior to the committee meeting notifying the program director and program board chairperson of the time, place, and date the committee will review and act upon the application for the program along with the results of the inspection. The division shall provide to all committee members reports of the on-site program licensure inspection and a final recommendation for each application to be acted upon at the next committee meeting.

**155.5(1)** *Application information for comprehensive programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

- a. The name and address of the applicant treatment program.
- b. The name and address of the executive director of such treatment program.
- c. The names, titles, dates of employment, education, and years of current job-related experience of staff and a copy of the table of organization. Where multiple components and facilities exist, the relationship between components and facilities must be shown, as well as a description of the screening and training process for volunteer workers.
- d. The names and addresses of members of the governing body, sponsors, or advisory boards of such treatment program and current articles of incorporation and bylaws.
- e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the treatment program has a direct contractual or affiliation agreement.
- f. A description of the treatment services provided by the treatment program and a description of weekly activities for each treatment modality or component.
- g. Copies of reports substantiating compliance with federal, state and local rules and laws for each facility, to include appropriate Iowa department of inspections and appeals rules, state fire marshal's rules and fire ordinances, appropriate local health, fire, occupancy code, and safety regulations.
- h. Information required under Iowa Code section 125.14A.
- i. Fiscal management information to include a recent audit or opinion of auditor and program board minutes to reflect approval of budget and insurance program.
- j. Insurance coverage related to professional and general liability; building; workers' compensation; and fidelity bond.
- k. The address and facility code of each office, facility, or program location.
- l. The program's current written policies and procedures manual to include the staff development and training program, and personnel policies. Applications for licensure will not be considered complete until a complete policies and procedures manual has been submitted to the division.
- m. The application information for an initial application for licensure shall be complete and shall be reviewed by the department prior to a scheduled on-site inspection.

**155.5(2)** *Application information for substance abuse assessment and evaluation programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

- a. The name and address of the applicant substance abuse assessment and evaluation program.
- b. The name and address of the executive director or sole practitioner of such substance abuse program.
- c. The names, titles, dates of employment, education, and years of current job-related experience of staff and a copy of the table of organization (if applicable). If multiple components and facilities exist, the relationship between components and facilities must be shown, as well as a description of services.
- d. The names and addresses of members of the governing body, sponsors, or advisory boards of such substance abuse assessment and evaluation program and current articles of incorporation and bylaws. (This requirement does not apply to a sole practitioner.)
- e. The name(s) and address(es) of person(s) entered into the affiliation agreement for clinical oversight.
- f. A description of the assessment and evaluation services.

g. Copies of reports substantiating compliance with federal, state and local rules and laws for each facility, to include appropriate state fire marshal's rules and fire ordinances, occupancy code, and safety regulations.

h. Information required under Iowa Code section 125.14A.

i. Insurance coverage related to professional and general liability; building; workers' compensation; and fidelity bond.

j. The address and facility code of each office, facility, or program location.

k. The program's current written policies and procedures manual which shall include the staff development and training program, and personnel policies. Applications for licensure will not be considered complete until a complete policies and procedures manual has been submitted to the division.

The application information for an initial application for licensure shall be complete and shall be reviewed by the department prior to a scheduled on-site inspection.

**155.5(3) *Renewal.*** An application for renewal shall be submitted on forms provided by the department at least 60 calendar days before expiration of the current license. An application for licensure renewal will not be considered complete until a current policies and procedures manual has been submitted to the department by the applicant treatment program.

**155.5(4) *Application update or revision.*** The department shall be notified, and a request of an application for licensure for update or revision shall be made, by an existing licensed program 30 days prior to any change(s) of address of offices, facilities, or program locations; or additions or deletions of the type(s) of services or programs provided and licensed. A new licensure application form shall be completed to reflect change of address of offices, facilities, or program locations, or additions or deletions of the type(s) of services or program(s) provided or licensed and shall be returned to the division within 10 working days from the date the forms are received. When applicable, as determined by the department, an on-site licensure inspection of a new component, service, program or facility may be conducted by the department within six months, upon receipt of the updated or revised application or during an existing licensed program's scheduled relicensure on-site inspection, whichever occurs first.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.6(125,135) *Application review.*** An applicant for licensure shall submit a completed application to the department within 30 days from the date the forms are received. The department shall review the application for completion and request any additional material as needed.

Applicants failing to return the forms shall be notified by registered mail that all programs must be licensed.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.7(125,135) *Inspection of licensees.*** The department shall inspect the facilities and review the policies and procedures utilized by each program. The examination and review may include case record audits and interviews with staff and clients, consistent with the confidentiality safeguards of state and federal laws.

**155.7(1) *Technical assistance.*** A program applying for an initial license to operate a treatment program in the state of Iowa will be visited by the department for the purpose of providing needed technical assistance regarding the licensure criteria and procedures. The program may waive technical assistance in order to expedite the licensing process. Requests shall be submitted in writing to the division.

a. Following the issuance of a license, the treatment program may request technical assistance from the department so as to bring into conformity areas reported to be in noncompliance to these rules. Such technical assistance shall be scheduled within 30 days of the applicant's request depending on the availability of staff. The department may also request that technical assistance be provided to the program if deficiencies are noted during a site visit.

b. Reserved.

**155.7(2) *On-site visit for licensure.*** A licensure on-site inspection shall be scheduled after the department's receipt of the program's application to operate a treatment program. The department shall not be required to provide advance notice to the program of the on-site visit for licensure.

a. The on-site visit team will consist of designated members of the division staff, as approved by the director.

b. The team will inspect the program in order to verify information contained in the application and ensure compliance with all laws, rules and regulations.

c. The inspection team shall send a written report, return receipt requested, of their findings to the applicant within 20 working days after the completion of the inspection.

**155.7(3) *Effective date of license.*** The effective date of a license shall begin on the date the committee reviews the program's written report/application and acts to issue a license.  
[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.8(125,135) Licenses—renewal.** Upon approval of an application for licensing by the committee, a license shall be issued by the department. Licenses shall be renewed pursuant to rule 641—155.5(125,135).

**155.8(1) *Committee meeting preparation.*** The division shall prepare a report with a final recommendation for licensing to be presented at a committee meeting within 80 days from the site visit. Public notice of committee meetings shall be made in accordance with Iowa Code section 21.4.

a. The division shall send notice to the program by certified mail, return receipt requested, ten days prior to the committee meeting notifying the program director and program board chairperson of the time, place, and date the committee will review and act upon the application for the program along with the results of the inspection.

b. The division shall mail to all committee members the following information on each application to be processed at the next committee meeting:

- (1) Reports of the on-site program licensure inspections; and
- (2) A final recommendation for licensing.

**155.8(2) *Committee meeting format.***

a. The chairperson or designee shall call the meeting to order at the designated time.

b. The presiding officer will read each application and protocols.

c. Opportunity shall be given all concerned parties to respond, present evidence, and arguments on each application.

d. After all concerned parties are heard, the committee will make a decision as to whether the applicant should be finally approved or initially denied a license to operate a substance abuse treatment program.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.9(125,135) Corrective action plan.** Programs approved for a license for 270 days by the committee shall submit a corrective action plan to the director no later than 30 days following the committee meeting. The corrective action plan shall include, but not be limited to:

1. Specific problem areas.
2. A delineation of corrective measures to be taken by the program.
3. A delineation of target dates for completion of corrective measures for each problem area.
4. A follow-up on-site visit will be required to review the implemented corrective action with a subsequent report to the committee.

Programs issued a license for a period of one or two years shall submit a corrective action plan for those standards found to be in noncompliance following a licensure inspection. Technical assistance on a corrective action plan shall not be required for one- or two-year licenses. The corrective action plan shall be submitted within 30 days of receipt of the licensure inspection report.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.10(125,135) Grounds for denial of initial license.**

**155.10(1) *Denial of application for licensure.*** All programs applying for an initial license shall submit complete application information and shall be inspected by the department prior to the program's opening and offering services. A recommendation by the department of a denial of an initial application for licensure to the committee may be made based on the following reasons:

a. The application for licensure is incomplete or does not have the information required by 641—155.5(125).

b. On-site inspection report results based on the licensure weighting report indicate a score below minimum required for a recommendation of a 270-day license. A program applying for a 270-day license shall have a minimum score of 70 percent in each of the following standards: clinical, administrative and programming.

c. Violation of any of the grounds for discipline pursuant to 641—155.11(125,135).

**155.10(2) *On-site visit for licensure.*** The on-site visit for licensure of an initial applicant shall occur prior to the program opening and admitting client/patients. The department shall not be required to provide advance notice to the program of the on-site visit for licensure.

a. The on-site visit team will consist of designated members of the division staff, as approved by the director.

b. The team will inspect the program that has applied for a license in order to verify information contained in the application, ensure compliance with all laws, rules and regulations.

c. The inspection team shall send a written report, return receipt requested, of their findings to the applicant within 20 working days after the completion of the inspection.

d. The application information for an initial application for licensure shall be complete and shall be reviewed by the department prior to a scheduled on-site inspection.

**155.10(3) *Committee action.*** The committee shall meet to consider all cases involving issuance of a license. Upon approval of an application for licensure by the committee, a license shall be issued by the department.

a. *Committee hearing preparation.* The division will prepare all documents with a final recommendation for licensing determination to be presented at a committee meeting within 120 days from the site visit. The division shall provide public notice of the date, time, and place of the meeting and the names of applicants to be reviewed and processed.

(1) The division shall provide notice to the program 30 days prior to the committee meeting notifying the program director and program board chairperson of the time, place, and date the committee will review and act upon the application for the program along with the results of the inspection.

(2) The division shall provide to all committee members the following information on each application to be processed at the next committee meeting: reports of the on-site program licensure inspections, and a final recommendation for licensing.

b. *Committee meeting format.*

(1) The chairperson or designee shall call the meeting to order at the designated time.

(2) The presiding officer or designee shall give summary of each application and protocols.

(3) Opportunity shall be given all concerned parties to respond and present evidence and arguments on each application.

(4) After all concerned parties are heard, the committee will make a decision as to whether the applicant should be finally approved or initially denied a license to operate a substance abuse treatment program.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

### **641—155.11(125,135) Suspension, revocation, or refusal to renew a license.**

**155.11(1)** The committee may suspend or revoke a license or refuse to renew a license for any of the following reasons:

a. Failure to adequately complete the application or renewal application process or submission of fraudulent or misleading information in the application or renewal process.

b. Failure to obtain the minimum score required for a one-, two- or three-year license.

c. Violation by a program, program employee or agent of any statute or rule pertaining to treatment programs, including a violation of any provision of this chapter.

d. Failure to comply with licensure, inspection, health, fire, occupancy, safety, sanitation, zoning, or building code or regulations required by federal, state, or local law.



- e.* Receiving a report from an accreditation body sanctioning, modifying, terminating, or withdrawing the accreditation of the program.
- f.* Suspension, revocation, refused renewal, or refused issuance of a federal registration to distribute or dispense methadone or other controlled substances.
- g.* Committing or permitting or aiding or abetting the commission of an unlawful act within a facility.
- h.* Conviction of a member of the governing body, a director, administrator, chief executive officer, or other managing staff member, of a felony or misdemeanor involving the management or operation of the facility or which is directly related to the operation or integrity of the facility.
- i.* Use of untruthful or improbable statements in advertising.
- j.* Conduct or practices found by the committee to be detrimental to the general health, safety, or welfare of a client/patient or member of the general community.
- k.* Violating a client/patient's confidentiality or willful, substantial, or repeated violations of a client/patient's rights.
- l.* Defrauding a client/patient, potential client/patient, or third-party payor.
- m.* Inappropriate conduct by program staff, including sexual or other harassment or exploitation of a program client/patient, volunteer, trainee or employee.
- n.* Utilization of treatment techniques which endanger the health, safety, or welfare of a client/patient.
- o.* Discrimination or retaliation against a client/patient or employee who has submitted a complaint or information to the department.
- p.* Failure to allow an employee or agent of the department access to the facility for the purpose of inspection, investigation, or other information collection duties necessary to the performance of the department's duties.
- q.* Failure to submit an acceptable written plan of corrective action or failure to comply with a written plan of corrective action issued pursuant to 155.3(2), 641—155.9(125,135), or 155.16(4) "e."
- r.* Violating an order of the committee or violating the terms or conditions of a consent agreement or informal settlement between a program and the committee.

**155.11(2)** Initial notice from committee. When the committee determines to deny a renewal, suspend or revoke a license, the committee shall notify the licensee by certified mail, return receipt requested, of the committee's intent to suspend, revoke, or refuse to renew the license and the changes that must be made in the licensee's operation to avoid such action. The initial notice shall further provide the licensee the opportunity to submit either a written plan of corrections or written objections to the department within 20 days from the receipt of notice from the committee.

**155.11(3)** Correction of issues or objections.

*a. Written plan of corrections.* If a licensee submits a written plan of corrections, the licensee shall have 60 days from the date of submission within which to show compliance with the plan of corrections. The licensee shall submit any information to the committee that the licensee deems pertinent to show compliance with the plan of corrections.

*b. Objections.* If a licensee submits written objections, the licensee shall submit to the committee any information that the licensee deems pertinent which supports the licensee's defense.

**155.11(4)** Decision of committee. Following receipt of a written plan of corrections and expiration of the 60-day time period, or following receipt of written objections, or when objections or notice of corrections have not been received within the 20-day time period, the committee may meet to determine whether to proceed with the disciplinary action. The licensee shall receive notice of this meeting in the same manner as provided by 155.8(1) "a."

**155.11(5)** Notice of decision and opportunity for contested case hearing.

*a.* When the committee determines to suspend, revoke or not renew a license, the licensee shall be given written notice by restricted certified mail.

*b.* The licensee may request a hearing on the determination. The request must be in writing and mailed to the department address within 30 days of the notice issued by the committee. The request shall

be sent by certified mail, return receipt requested. Failure to request a hearing will result in final action by the committee.

**155.11(6) Summary suspension.** If the committee finds that the health, safety or welfare of the public is endangered by continued operation of a treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.12(125,135) Contested case hearing.** Programs that wish to contest the denial, suspension, revocation or refusal to renew their license shall be afforded an opportunity for a hearing before an administrative law judge from the Department of Inspections and Appeals. The program will be notified in writing, return receipt requested, of the date of the hearing, no less than 30 days before the hearing.

**155.12(1) Failure to appear.** If a party fails to appear in a contested case hearing proceeding after proper service of notice, the administrative law judge shall, in such a case, enter a default judgment against the party failing to appear.

**155.12(2) Conduct of hearing.** Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

*a.* The hearing shall be informal and all relevant evidence admissible. Effect will be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When the hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

*b.* Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

*c.* Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

*d.* The record in a contested case shall include:

- (1) All pleadings, motions and intermediate rulings.
- (2) All evidence received or considered and all other submissions.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections and rulings therein.
- (5) All proposed findings and exceptions.
- (6) Any decision, opinion or report by the officer presiding at the hearing.

*e.* Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

*f.* Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

**155.12(3) Continuance.** For good cause, the administrative law judge may continue hearings beyond the time originally scheduled or recessed. Requests for continuance shall be made to the administrative law judge in writing at least three days prior to the scheduled hearing date. Continuances will not be granted less than three days before the hearing except for exigent circumstances.

**155.12(4) Decision.** Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

*a.* The decision of the administrative law judge shall be the final decision unless there is an appeal to the board within 20 days of the receipt of the decision.

*b.* A proposed or final decision or order in a contested case hearing shall be in writing. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Parties will be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such

decision or order by certified mail, return receipt requested. In the case of a proposed decision, parties shall be notified of the right to appeal the decision to the board.

**155.12(5) *Appeal to the board.***

*a.* Either party may request the board review the proposed decision. The request shall be in writing and mailed within 20 days of receipt of the proposed decision.

*b.* The parties shall have an opportunity to submit briefs to the board. The board will review the record and any briefs. No new evidence shall be admitted unless requested and allowed by the board.

*c.* Oral presentation will be made to the board at a time set by the board.

*d.* The board shall issue its decision in writing within 30 days after conclusion of the hearing.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.13(125,135) Rehearing application.** Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within 20 days after the issuance of any final decision by the board in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.14(125,135) Judicial review.** A licensee who is aggrieved or adversely affected by the board's final decision and who has exhausted all adequate administrative remedies may seek judicial review of the board's decision pursuant to and in accordance with Iowa Code section 17A.19.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.15(125,135) Reissuance or reinstatement.** After suspension, revocation or refusal to renew a license, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation or expiration upon refusal to renew, unless by order of the committee. After that time, proof of compliance with the licensure standards must be presented to the committee prior to reinstatement or reissuance of a license.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.16(125,135) Complaints and investigations.**

**155.16(1) *Complaints.*** Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be mailed or delivered to the division director at the Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. A complaint form may be downloaded on-line at: [http://www.idph.state.ia.us/bh/common/pdf/substance\\_abuse/complaint\\_form.pdf](http://www.idph.state.ia.us/bh/common/pdf/substance_abuse/complaint_form.pdf). The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the committee's own motion pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**155.16(2) *Evaluation and investigation.*** Upon receipt of a complaint, the department shall make a preliminary review of the allegations contained in the complaint. Unless the department concludes that the complaint is intended solely to harass a program or lacks a reasonable basis, it shall conduct an on-site investigation of the program which is the subject of the complaint as soon as is practicable. The program which is the subject of the complaint shall be given an opportunity to informally respond to the allegations contained in the complaint either in writing or through a personal interview or conference.

**155.16(3) *Investigative report.*** Within 30 working days after completion of the investigation, the department shall prepare a written investigative report and shall submit the report to the executive director of the program, the chairperson of the governing body, and the committee. This report shall include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated,

or undetermined, the basis for the finding, the specific statutes or rules at issue, a response from the program, if received, and a recommendation for action.

**155.16(4) Review of investigations.** The committee shall review the investigative report at its next regularly scheduled meeting and shall determine appropriate action.

*a. Closure.* If the committee determines that the allegations contained in the complaint are unsubstantiated, the committee shall close the case and shall promptly notify the complainant and the program by letter.

*b. Referral for further investigation.* If the committee determines that the case warrants further investigation, it shall refer the case to the department for further investigation.

*c. Written plan of corrective action.* If the committee determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the committee may require the program to submit and comply with a written plan of corrective action. A program shall submit a written plan of corrective action to the department within 20 working days after receiving a request for such plan. The written plan of corrective action shall include a plan for correcting violations as required by the committee and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written plan of corrective action is not formal disciplinary action. Failure to submit or comply with a written plan of corrective action may result in formal disciplinary action against the program.

*d. Disciplinary action.* If the committee determines that the allegations contained in the complaint are substantiated and disciplinary action is warranted, the committee may proceed with such action in accordance with rule 641—155.11(125).

**155.16(5) Confidential information and public information.** Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to client/patients by number and shall not include any other client/patient identifying information. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.17** Reserved.

**641—155.18(125,135) Deemed status.** The committee shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the committee determines that the accreditation is for the same services. Problem gambling treatment components shall not be granted deemed status under this rule, unless specifically reviewed by the accreditation body.

**155.18(1) National accreditation bodies.** The national accreditation bodies currently recognized as meeting committee criteria for possible deemed status are:

- a. Joint Commission.*
- b. Council on Accreditation of Rehabilitation Facilities (CARF).*
- c. Council on Accreditation of Children and Family Services (COA).*
- d. American Osteopathic Association (AOA).*

**155.18(2) Credentials and expectations of accreditation bodies.**

*a. The accreditation credentials of the bodies shall specify the types of organizations, programs and services the bodies accredit and targeted population groups, if appropriate.*

*b. Deemed status means that the committee and division shall recognize, in lieu of their own review, an outside body's review, assessment, and accreditation of a hospital-based or freestanding community-based treatment program's operations, functioning, and services that correspond to those described in this chapter.*

**155.18(3) Responsibilities of programs granted deemed status.**

a. When a program receives accreditation and is then granted licensure through deemed status, the program shall continue to be responsible for meeting all requirements in accordance with this chapter and all applicable laws and regulations.

b. If a program that is nationally accredited requests deemed status for services not covered by the national accreditation body's standards, but covered by this chapter, the licensing for those services shall be conducted by the division.

c. Copies of the entire CARF, Joint Commission, COA, or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

d. A program shall submit to the division accreditation corrective plans or written conditions to accreditation.

e. A program shall be currently accredited by a committee-approved national accreditation body for services that are outlined in this chapter.

f. A program shall advise the division of any changes in the program's accreditation status, address, executive director/CEO, facility locations, or any other changes to the program/organization within 30 days of such change.

g. All survey reports for the hospital-based or freestanding community-based treatment program from the accrediting or licensing body shall be sent to the division.

h. For a program granted deemed status, the period of deemed status shall coincide with the period of time that program is awarded accreditation by the national accreditation body. However, under no circumstances shall it be longer than three years.

**155.18(4)** The committee and division shall retain the following responsibilities and rights when deemed status is granted to program/organizations:

a. The division may conduct site follow-up visits as determined appropriate.

b. The division shall investigate all complaints that are under the authority of this chapter and recommend and require corrective action or other sanctions in accordance with 641—155.16(125,135). All complaints, findings, and required corrective action may be reported to the accreditation body.

c. The committee shall review and act upon deemed status if necessary when complaints have been founded, when national accreditation bodies find instances of noncompliance with accreditation, when the accreditation status of the program expires without renewal, when the program's accreditation status is downgraded or withdrawn by the accreditation body, or when focused reviews find instances of noncompliance.

**155.18(5)** *Continuation of deemed status.* The program shall submit a copy of all CARF, Joint Commission, COA, or AOA behavioral health accreditation survey reports to the division. Applications for continuation of deemed status shall be submitted pursuant to 155.5(3).

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.19(125,135) Funding.** The issuance of the license to any program shall not be construed as a commitment on the part of either the state or federal government to provide funds to such licensed program.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.20(125,135) Inspection.** Each applicant or licensee agrees as a condition of licensure:

**155.20(1)** To permit properly designated representatives of the department to enter into and inspect any and all premises of programs for which a license has been either applied or issued to verify information contained in the application or to ensure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of said facility and at any other reasonable hour.

**155.20(2)** To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the licensee. A facility shall not be licensed which does not permit inspection by the department or examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the committee deems relevant to the establishment of such a system.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

**641—155.21(125,135) General standards for all treatment programs.** The following standards shall apply to all treatment programs in the state of Iowa regardless of the category of treatment services provided by such programs. In situations where differences between general standards for all treatment programs and specific standards occur, both general and specific standards must be met.

**155.21(1) Governing body.** Each program shall have a formally designated governing body that is representative of the community being served, complies with Iowa Code chapter 504, and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for requirements to have malpractice and liability insurance.

a. The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, advisory groups, and the executive director. These bylaws shall be reviewed and revised by the governing body as necessary.

b. The bylaws shall minimally specify the following:

- (1) The type of membership;
- (2) The term of appointment;
- (3) The frequency of meetings;
- (4) The attendance requirements; and
- (5) The quorum necessary to transact business.

c. Minutes of all meetings shall be kept and be available for review by the department and shall include, but not necessarily be limited to:

- (1) Date of the meeting;
- (2) Names of members attending;
- (3) Topics discussed; and
- (4) Decisions reached and actions taken.

d. The duties of the governing body shall include, but not necessarily be limited to, the following:

- (1) Appointment of a qualified executive director who shall have the responsibility and authority for the management of the program in accordance with the governing body's established policies;
- (2) Establish an effective control which will ensure that quality services are delivered;
- (3) Review and approve the program's annual budget; and
- (4) Approve all contracts.

e. The governing body shall develop and approve policies for the effective operation of the program.

f. The governing body shall be responsible for all funds, equipment, supplies and the facility in which the program operates. The governing body shall be responsible for the appropriateness and adequacy of services provided by the program.

g. The governing body shall at least annually prepare a report which will include, but not necessarily be limited to, the following items:

- (1) The name, address, occupation, and place of employment of each governing body member;
- (2) Any family relationships which a member of the governing body may have to a program staff member; and
- (3) Where applicable, the name and address of all owners or controlling parties whether they are individuals, partnerships, corporation body, or subdivision of other bodies, such as a public agency, or religious group, fraternity, or other philanthropic organization.

h. The governing body shall assume responsibility in seeing that the program has malpractice and liability insurance and a fidelity bond.

**155.21(2) Executive director.** This individual shall have primary responsibility for the overall program operations. The duties of the executive director shall be clearly defined by the governing authority, when applicable, in accordance with the policies established by the governing body.

**155.21(3) Clinical oversight.** The program shall have appropriate clinical oversight to ensure quality of clinical services provided to client/patients. This may be provided in-house or through consultation.

Clinical oversight may include assisting the program in developing policies and procedures relating to the assessment and treatment of psychopathology, assisting in the training of the staff and providing

assistance to the clinical staff in assessment or treatment. The executive director or designee shall be ultimately responsible for clinical services and implementation of treatment services to client/patients.

**155.21(4) *Staff development and training.*** There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain professional license or certification as specified in 155.21(8) will meet the requirements of this subrule.

*a.* Evidence of professional education, certification as specified in 155.21(8), licensing, or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, and tuberculosis and blood-borne pathogens; an orientation to the program and community resources; counseling skill development; HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

*b.* The program shall establish on-site training programs or enter into relationships with outside resources capable of meeting staff training needs.

*c.* The staff development program shall take steps to ensure that staff members are kept informed of new developments in the field of assessment, evaluation, placement, treatment and rehabilitation.

*d.* In-service training programs shall be instituted when program operations or functions are changed and shall be designed to allow staff members to develop new skills so that they may effectively adapt to such changes.

*e.* Staff development activities and participation in state, national and regional training shall be planned and scheduled. These activities shall be documented in order to evaluate their scope, effectiveness, attendance, and amount of time spent on such efforts. The written plan for on-site staff development and activities for professional growth and development of personnel shall be based on the annual needs assessment and shall be available to all personnel.

*f.* Minutes shall be kept of on-site training activities and shall include, but not necessarily be limited to:

- (1) Date of the meeting;
- (2) Names of persons attending; and
- (3) Topics discussed, to include name and title of presenters.

*g.* The individual responsible for supervising staff development activities shall conduct at least an annual needs assessment.

**155.21(5) *Management information system.*** Programs receiving Medicaid or state funding and programs performing OWI evaluations in accordance with 641—Chapter 157 shall submit client/patient data to the Iowa Department of Public Health, Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with reporting system procedures.

**155.21(6) *Procedures manual.*** All programs shall develop and maintain a procedures manual. This manual shall define the program's policies and procedures to reflect the program's activities. Revisions shall be entered with the date, name and title of the individual making the entries. This manual shall contain all of the required written policies, procedures, definitions, and all other documentation outlined throughout these standards. The manual shall contain a working table of contents covering all policies and procedures mandated by this chapter.

**155.21(7) *Fiscal management.*** The program shall ensure proper fiscal management which shall include the following:

*a.* The preparation and maintenance of an annual written budget which shall be reviewed and approved by the governing body prior to the beginning of the budget year.

*b.* The fiscal management system shall be maintained in accordance with generally accepted accounting principles, including internal controls to reasonably protect agency assets. This shall be verified by an independent fiscal audit of the program by the state auditor's office or certified public accountant based on an agreement entered into by the governing body. An annual fiscal audit shall not be required for programs with an annual budget of \$75,000 or less.

c. There shall be an insurance program that provides for the protection of the physical and financial resources of the program which provides coverage for all people, buildings, and equipment. The insurance program shall be reviewed annually by the governing body.

d. Assessment and evaluation programs shall make public the OWI evaluation fees, and the client/patient shall be informed of the fee at the time of scheduling the appointment for the evaluation.

**155.21(8) Personnel.** Written personnel policies and procedures shall be developed by all programs except for sole practitioners. All program staff shall subscribe to a code of conduct found in professional certification or licensure as specified in 155.21(8).

a. All programs shall have written policies and procedures that address the following areas:

- (1) Recruitment, selection, and certification of staff members;
- (2) Recruitment and selection of volunteers;
- (3) Wage and salary administration;
- (4) Promotions;
- (5) Employee benefits;
- (6) Working hours;
- (7) Vacation and sick leave;
- (8) Lines of authority;
- (9) Rules of conduct;
- (10) Disciplinary actions and termination of employees;
- (11) Methods for handling cases of inappropriate client/patient care;
- (12) Work performance appraisal;
- (13) Employee accidents and safety;
- (14) Employee grievances; and
- (15) Policy on staff persons suspected of using or abusing substances.

b. The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.

c. There shall be written job descriptions that reflect the actual duties of the employee.

d. Job descriptions shall accurately reflect the actual job situation and shall be reviewed when necessary by the executive director or whenever there is a change in required qualifications or duties.

e. All positions shall have job descriptions included in the personnel section of the procedures manual or personnel record of the staff member.

f. The written personnel policies and practices shall include a mechanism for written evaluation of personnel performance on at least an annual basis. There shall be evidence that this evaluation is reviewed with the employee and that the employee is given the opportunity to respond to this evaluation.

g. There shall be a personnel record kept on each staff member. These records shall contain as applicable:

- (1) Verification of training, experience, and all professional credentials relevant to the position;
- (2) Job performance evaluations;
- (3) Incident reports;
- (4) Disciplinary actions taken; and
- (5) Documentation of review and adherence to confidentiality laws and regulations. This review and agreement shall occur prior to assumption of duties.

h. There shall be written policies and procedures designed to ensure confidentiality of personnel records and a delineation of authorized personnel who have access to various types of personnel information.

i. Appropriately credentialed counselors.

(1) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet at least one of the following conditions:

1. Currently maintain a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.



2. Currently maintain active status as a licensed marital and family therapist (LMFT) licensed under Iowa Code chapters 154D and 147; a licensed mental health counselor (LMHC) licensed under Iowa Code chapters 154D and 147; a licensed independent social worker (LISW) licensed under Iowa Code chapters 154C and 147; or another licensed professional authorized by the Iowa Code to diagnose and treat DSM-IV disorders.

3. Currently maintain active status as a licensed master social worker (LMSW) licensed under Iowa Code chapters 154C and 147.

4. For a person beginning employment on or after July 1, 2010, at a program licensed in Iowa pursuant to this chapter who does not currently maintain one of the credentials described in “1” to “3” above, successfully complete and maintain one of those credentials within two years of the date on which the person begins to provide services.

5. Be employed before July 1, 2010, as a counselor at a program licensed in Iowa pursuant to this chapter. Those deemed qualified remain qualified only for work for that licensed program.

(2) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall maintain a minimum of 30 hours of training within the person’s primary scope of practice every two years, including a minimum of three hours of ethics training. In addition to practicing within their primary scope of practice, certified or licensed personnel may practice within a subspecialty in accordance with this chapter by maintaining a minimum of an additional 20 hours of training within the subspecialty every two years.

*j.* The program shall notify the department in writing within ten working days when a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body.

*k.* There shall be written policies related to the prohibition of sexual harassment.

*l.* There shall be written policies related to the implementation of the Americans with Disabilities Act.

**155.21(9) *Child abuse/dependent adult abuse/criminal history background check.***

*a.* Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. Written policies and procedures on reporting alleged violations regarding problem gambling client/patients shall be in compliance with HIPAA and the Iowa Code. Any employee found to be in violation of Iowa Code sections 232.67 through 232.70, as substantiated by a department of human services’ investigation shall be subject to the program’s policies concerning dismissal.

*b.* For each employee working within a juvenile services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain at a minimum:

(1) Documentation of a criminal history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect or sexual abuse or dependent adult abuse.

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

*c.* A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded child abuse or founded dependent adult abuse does not

merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse does exist, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person involved.

*d.* Each treatment staff member shall complete two hours of training relating to the identification and reporting of child abuse and dependent adult abuse within six months of initial employment and at least two hours of additional training every five years thereafter.

**155.21(10)** *Client/patient case record maintenance.* There shall be written policies and procedures governing the compilation, storage and dissemination of individual client/patient case records.

*a.* These policies and procedures shall ensure that:

(1) The program exercises its responsibility for safeguarding and protecting the client/patient case record against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of client/patient records are kept uniform; and

(3) Entries in the client/patient case record are signed and dated.

*b.* The program shall provide adequate physical facilities for the storage, processing, and handling of client/patient case records. These facilities shall include suitably locked, secured rooms or file cabinets.

*c.* Appropriate records shall be readily accessible to those staff members providing services directly to the client/patient and other individuals specifically authorized by program policy. Records should be kept in proximity to the area in which the client/patient normally receives services.

*d.* The program shall have a written policy governing the disposal and maintenance of client/patient case records. Client/patient case records shall be maintained for not less than seven years from the date they are officially closed.

*e.* Each file cabinet or storage area containing client/patient case records shall be locked.

*f.* The governing body shall establish policies that specify the conditions under which information on applicants or client/patients may be released and the procedures to be followed for releasing such information. Even if a program is not federally funded, all such policies and procedures regarding substance abuse client/patients shall be in accordance with HIPAA and the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records, and state confidentiality laws and regulations. All such policies and procedures regarding problem gambling client/patients shall be in accordance with HIPAA and Iowa Code chapter 228.

*g.* Confidentiality of alcohol and drug abuse client/patient records. The confidentiality of alcohol and drug abuse client/patient records maintained by a program is protected by HIPAA and the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records.

*h.* Confidentiality of problem gambling client/patient records. The confidentiality of problem gambling client/patient records maintained by a program is protected by HIPAA and Iowa Code chapter 228.

*i.* The provision of treatment to a client/patient through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the licensee, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125 and 2009 Iowa Code Supplement section 135.150 and these rules. A licensee who provides services via electronic media shall inform the client/patient of the limitations and risks associated with such services and shall document in the client/patient case record that such notice has been provided.

j. Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

**155.21(11)** *Placement screening, admission, assessment and evaluation.*

a. The program shall conduct an initial assessment for substance abuse client/patients which shall include evaluation of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, Revised, or other national or recognized criteria approved by the department upon granting a variance by the director in accordance with 641—Chapter 178 for determining the eligibility of individuals for placement and admission. The program shall utilize a recognized diagnostic test/tool to determine substance abuse or dependence as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition).

b. The program shall conduct an initial assessment for problem gambling client/patients that shall utilize a recognized diagnostic test/tool to determine pathological gambling as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition). The client/patient is a problem gambler if the client/patient meets any of the diagnostic criteria for pathological gambling.

c. The program shall have written policies and procedures governing a uniform assessment process that defines:

- (1) The types of information to be gathered on all individuals upon admission;
- (2) Procedures to be followed when accepting referrals from outside agencies or organizations;
- (3) The types of records to be kept on all individuals applying for services.

d. Following admission, the comprehensive assessment (psychosocial history) shall be an analysis and synthesis of the client/patient’s status and shall address the client/patient’s strengths and needs, which may be documented in the comprehensive assessment or in the treatment plan, and areas of clinical concern. Sufficient information shall be collected so that a comprehensive treatment plan can be developed. The comprehensive treatment plan shall be developed within the period of time between admission and the first review date specified for that particular level of care within the management of care review process, or within 30 days for problem gambling client/patients.

e. At the time of admission, documentation shall be made that the individual has been informed of:

- (1) General nature and goals of the program;
- (2) Rules governing client/patient conduct and infractions that can lead to disciplinary action or discharge from the program;
- (3) In a nonresidential program, the hours during which services are available;
- (4) Treatment costs to be borne by the client/patient, if any;
- (5) Client/patient’s rights and responsibilities;
- (6) Confidentiality laws, rules and regulations;
- (7) HIV/AIDS information; and
- (8) Safety and emergency procedures for residential, halfway house, inpatient and treatment services with housing.

f. The results of the screening and admission process shall be clearly explained to the client/patient and to the client/patient’s family when appropriate. This shall be documented in the client/patient record.

**155.21(12)** *Treatment plans.* Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client/patient case record. The program shall have written policies and procedures governing a uniform process for treatment planning.

a. A treatment plan shall be developed as soon after the client/patient’s admission as is clinically feasible and within the period of time between admission and the next review date specified for that particular level of care within the management of care review process.

- b. The individualized treatment plan shall minimally contain:
  - (1) A clear and concise statement of the client/patient's current strengths and needs, which may be documented in the treatment plan or in the comprehensive assessment;
  - (2) Clear and concise statements of the short- and long-term goals the client/patient will be attempting to achieve;
  - (3) Type and frequency of therapeutic activities in which the client/patient will be participating;
  - (4) The staff person(s) to be responsible for the client/patient's treatment; and
  - (5) Treatment plans shall be culturally and environmentally specific so as to meet the needs of the client/patient. Treatment plans shall be written in a manner readily understandable to the client/patient, with assistance if necessary.
- c. Treatment plans shall be developed in partnership with the client/patient and shall be reviewed by the primary counselor and the client/patient as often as necessary and in accordance with the time frames specified within the management of care review process.
- d. The reviews shall consist of: a reassessment of the client/patient's current status in conjunction with the continued stay review criteria, accomplishments and needs, and a redefining of treatment goals when appropriate. The date of the review, as well as any changes, shall be recorded in the record.
- e. The use of abstract terms, technical jargon, or slang should be avoided in the treatment plan. The program should provide the client/patient with copies of all treatment plans upon request.

**155.21(13) Progress notes.** A client/patient's progress and current status in meeting the goals set in the treatment plan shall be recorded in the client/patient case record. Information will be noted following each individual counseling session and a summary of group counseling services shall be documented at least weekly.

a. Entries shall be filed in chronological order and shall include the date services were provided or observations made, the date the entry was made, and the signature or initials and staff title of the individual rendering the services. All progress notes shall be legibly entered into the client/patient case record in permanent pen, by typewriter, or by computer. In those instances where records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature.

b. All entries that involve subjective interpretations of a client/patient's progress should be supplemented with a description of the actual behavioral observations which were the basis for the interpretation.

c. The use of abstract terms, technical jargon, or slang should be avoided in progress notes.

d. The program shall develop a uniform progress note format to be used by all clinical staff.

**155.21(14) Client/patient case record contents.** There shall be a case record for each client/patient that contains:

- a. Results of all examinations, tests, and screening and admissions information;
- b. Reports from referring sources;
- c. Treatment plans;
- d. Continued stay and discharge reviews;
- e. Medication records, which shall allow for the monitoring of all medications administered and self-administered and the detection of adverse drug reactions. All medication orders in the client/patient case records shall define at least the name of the medication, dose, route of administration, frequency of administration, the name of the physician who prescribed the medication, and the name of the person administering or dispensing the medication;
- f. Reports from outside resources shall be dated and include the name of the resource;
- g. Multidisciplinary case conference and consultation notes, including the date of the conference or consultation, recommendations made, actions taken, and individuals involved;
- h. Correspondence related to the client/patient, including all letters and dated notations of telephone conversations relevant to the client/patient's treatment;
- i. Treatment consent forms, if applicable;
- j. Information release forms;
- k. Progress notes;

- l.* Records of services provided;
- m.* Discharge summaries of services provided shall be completed within 30 days of discharge and shall be sufficiently detailed to identify the types of services the client/patient has received and action taken to address specific problems identified. General terms such as “counseling” or “activities” shall be avoided in describing services;
- n.* Management information system or other appropriate data forms; and
- o.* Incident reports.
- p.* Records of financial counseling services for problem gambling client/patients. The treatment program shall offer financial counseling services to problem gambling client/patients. Financial counseling services shall be provided in-house or through consultation. If the treatment program determines that the problem gambling client/patient has financial problems, then financial counseling services shall include assisting the client/patient in preparing a budget and discussing financial debt options, including restitution and bankruptcy.

**155.21(15) *Drug screening.*** All programs serving client/patients who are receiving treatment for use or abuse of a controlled substance shall establish policies and procedures, if applicable, for the collection of urine specimens and utilization of urinalysis results.

*a.* Urine specimens obtained from client/patients shall be collected under direct supervision and analyzed as indicated by the program, or the program shall have a policy in place to reduce the client/patient’s ability to skew the test.

*b.* Any laboratory used by the program for urine testing and analysis shall comply, if applicable, with all federal and state proficiency testing programs.

*c.* Any program conducting on-site urine testing shall comply with the Clinical Laboratory Improvement Act regulations.

*d.* Client/patient records shall reflect the manner in which urine test results are utilized in treatment.

*e.* For programs with a urinalysis service, policies shall be developed concerning measures to be employed when urine specimens of client/patients are found to contain substances.

**155.21(16) *Medical services.*** The treatment program shall have policies and procedures developed in conjunction with a physician to examine and evaluate client/patients/concerned persons seeking or undergoing treatment or rehabilitation.

*a.* Individuals who enter an inpatient, residential, halfway house, chemotherapy or emergency care facility (ASAM Levels III.1, III.3, III.5, III.7 and IV) shall undergo a medical history and physical examination. Laboratory examinations may be performed as deemed necessary by the physician. The medical history, physical examination, and necessary laboratory examinations shall be performed as soon as possible, however minimally, as follows:

(1) Inpatient medically managed and medically monitored residential treatment services (ASAM Levels IV and III.7) within 24 hours of admission;

(2) Primary residential and extended residential treatment (Levels III.5 and III.3) within 7 calendar days of admission; and

(3) Halfway house services (Level III.1) within 21 calendar days of admission.

*b.* For individuals who enter a Level I or Level II service, a medical history shall be obtained upon admission.

*c.* A program may accept medical history and physical examination results from referral sources if the medical history and examination were completed no more than 90 days prior to admission.

*d.* All client/patients admitted to residential, inpatient or halfway house services and high-risk outpatient client/patients shall have a tuberculosis skin test administered and read within 5 days of admission. If the client/patient has documentation of a negative tuberculosis skin test within the previous 90 days, the tuberculosis test may be accepted if the client/patient does not show any symptoms. If the client/patient has unexplained symptoms or a history of positive tuberculosis skin tests, the physician shall determine what tests are needed.

**155.21(17) *Emergency medical services.*** The program shall ensure, by affiliation agreement, or contract, that emergency medical services at a general hospital are available on a 24-hour basis.

a. The program will maintain emergency medical service coverage on a 24-hour, seven days a week, basis.

b. The program shall ensure that all community service providers, medical facilities, law enforcement agencies, and other appropriate personnel are informed of the 24-hour emergency services and treatment available.

**155.21(18) Medication control.** Policies and procedures shall be developed to ensure that prescription and over-the-counter drugs are administered or self-administered safely and properly in accordance with federal, state and local laws and regulations. The written policies and procedures shall include, but not be limited to, the following:

a. Authorized personnel who administer medications shall be qualified, and an updated list of such personnel shall be maintained. Only the following are designated by 657—8.32(124,155A) as qualified individuals to whom a physician can delegate the administration of controlled substances:

(1) Persons who have successfully completed a medication administration course reviewed by the board of pharmacy examiners.

(2) Advanced emergency medical technicians and paramedics.

(3) Licensed physician assistants.

(4) Licensed pharmacists.

(5) Nurse, intern or other qualified individual delegated the responsibility to administer a prescription drug by a practitioner, licensed by the appropriate state board, to administer drugs to patients, in accordance with Iowa Code section 155A.4(2)“c.”

b. Medications shall be administered only in accordance with the instructions of the attending physician. The type and amount of the medication, the time and date, and the staff member administering the medication shall be documented in the client/patient’s record.

c. Self-administration of prescription medication shall be observed by a staff member who has been oriented to the program’s policies and procedures on self-administration. Self-administration of prescription medications shall be permitted only when the client/patient’s medication is clearly labeled. There shall be written policies and procedures relative to self-administration of prescription medications by client/patients and only when:

(1) Medications are prescribed by a physician.

(2) The physician agrees that the client/patient can self-administer the drug.

(3) What is taken, how, and when, are documented in the record of the client/patient.

d. Drugs/medications shall be prescribed by a physician or other practitioner authorized to prescribe under Iowa law.

e. Prescription drugs shall not be administered or self-administered to a client/patient without a written order signed by a physician or other practitioner authorized to prescribe under Iowa law. All prescribed medications shall be clearly labeled indicating the client/patient’s full name, physician’s name, prescription number, name and strength of the medication, dosage, directions for use, date of issue; and name, address and telephone number of the pharmacy or physician issuing the medication. Medications shall be packaged and labeled according to state and federal guidelines.

f. If the medications the client/patient brings to the program are not to be used, they shall be packaged, sealed and stored. The sealed packages of medications shall be returned to the client/patient, family or significant others at the time of discharge.

g. Accountability and control of medications.

(1) There shall be a specific routine for medication administration, indicating dose schedules and standardization of abbreviations.

(2) There shall be specific methods for control and accountability of medication products throughout the program.

(3) The staff member in charge of medications shall provide for monthly inspection of all storage units.

(4) Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal.

(5) Unused prescription drugs prescribed for residents who have left the facility without their medication shall be destroyed by the person in charge with a witness and notation made on the resident's record. When a resident is discharged or leaves the facility, medications currently being administered shall be sent, in the original container, with the resident or with a responsible agent, and with the approval of the physician.

*h.* Medication storage shall be maintained in accordance with the security requirements of federal, state and local laws.

(1) All medication shall be maintained in locked storage. Controlled substances shall be maintained in a locked box within the locked cabinet.

(2) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items.

(3) Disinfectants and medication for external use shall be stored separately from internal and injectable medications.

(4) The medication for each client/patient shall be stored in the original containers.

(5) All potent poisonous or caustic medication shall be plainly labeled, stored separately from other medication in a specific well-illuminated cabinet, closet, or storeroom, and made accessible only to authorized persons.

*i.* Dispensed from a licensed pharmacy. Medication provided to a client/patient shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Code of Iowa, or from a licensed pharmacy in another state according to the laws of that state, or by a licensed physician.

*j.* Use of medications. Prescription medications prescribed for one resident may not be administered to or allowed in the possession of another resident.

*k.* Patient reaction. Any unusual client/patient reaction to a medication shall be documented in the client/patient record and reported to the attending physician immediately.

*l.* Dilution or reconstitution of medication. Dilution or reconstitution and labeling of medication shall be done only by a licensed pharmacist.

**155.21(19) *Management of care.*** The program shall ensure appropriate level of care utilization by implementing and maintaining the written placement screening, continuing service, and discharge criteria process developed by the department.

*a.* The program shall also address underutilization, overutilization, and the effective use of levels of care available.

*b.* The time frames for management of care activities minimally shall be implemented within 30 days for Levels I and III.1; within 7 days for Levels II.1, II.5, III.3 and III.5; and daily for Levels III.7 and IV.

*c.* The discharge planning process shall begin at admission and shall include a determination of the client/patient's continued need for treatment services and development of a plan to address ongoing client/patient needs posttreatment. Discharge planning may or may not include a document identified as a discharge plan.

**155.21(20) *Quality improvement.*** The program shall have an ongoing quality improvement program designed to objectively and systematically monitor and evaluate the quality and appropriateness of client/patient care, pursue opportunities to improve client/patient care, and resolve identified problems. Quality improvement efforts shall be facilitywide in scope and include review of clinical and professional services.

*a.* There shall be a written plan for a quality improvement program that describes the objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities.

*b.* The program shall establish written policies and procedures to both describe and document the quality improvement of the program's monitoring and evaluation activities. The policies and procedures shall ensure that:

(1) Information is collected or screened by a designated individual, individuals, or committee. Quality improvement activities may be contracted through all outside resources;

(2) Objective criteria shall be utilized in the development and application of criteria relating to the care or service it provides; and

(3) Objective criteria shall be utilized in the evaluation of the information collected in order to identify important problems in, or opportunities to improve, client/patient care and clinical performance.

c. The program shall document that the quality of client/patient care is improved and identified problems are resolved through actions taken as appropriate by the program's administrative and supervisory staffs and through professional staff functions.

d. Necessary information shall be communicated among program components, modalities, or services when problems or opportunities to improve client/patient care involve more than one program component or service.

e. The program shall ensure that the status of identified problems is tracked to ensure improvement or resolution.

f. Information from program components or services and the findings of discrete quality improvement activities are used to detect trends, patterns of performance, or potential problems that affect more than one program component or service.

g. The objectives, scope, organization, and effectiveness of the quality improvement program are evaluated at least annually and revised as necessary.

**155.21(21) *Building construction and safety.*** All buildings in which client/patients receive screenings, evaluations, assessments or treatment shall be designed, constructed, equipped, and maintained in a manner that provides for the physical safety of client/patients, personnel, and visitors.

a. If required by local jurisdiction, all programs shall maintain a certification of occupancy.

b. During all phases of construction or alterations of buildings, the level of life safety shall not be diminished in any occupied area. The construction shall be in compliance with all applicable federal, state, and local codes.

c. New construction shall comply with Iowa Code chapter 104A and all applicable federal and local codes and provide for safe and convenient use by disabled individuals.

d. All programs shall have written policies and procedures to provide a safe environment for client/patients, personnel, and visitors and to monitor that environment. The program shall document implementation of the procedures. The written policies and procedures shall include, but not be limited to, the following:

(1) The process for the identification, development, implementation, and review of safety policies and procedures for all departments or services.

(2) The promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards related to client/patients, visitors, and personnel.

(3) The process by which the staff is to dispose of biohazardous waste within the clinical service areas.

(4) All program areas.

1. Stairways, halls, and aisles shall be of substantial nonslippery material, shall be maintained in a good state of repair, shall be adequately lighted and shall be kept free from obstructions at all times. All stairways shall have handrails.

2. Radiators, registers, and steam and hot water pipes shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.

3. For juvenile facilities, fuse boxes shall be under lock and key or six feet above the floor.

4. Facilities shall have written procedures for the handling and storage of hazardous materials.

5. Facilities shall have policies and procedures for weapons removal.

6. Swimming pools shall conform to state and local health and safety regulations. Adult supervision shall be provided at all times when children are using the pool.

7. Facilities shall have policies regarding fishing ponds, lakes, or any bodies of water located on or near the program and accessible to the client/patient.

**155.21(22) *Outpatient facility.*** The outpatient facility shall be safe, clean, well ventilated, properly heated, free from vermin and rodents and in good repair.



a. The facility shall be appropriate for providing services available from the program and for protecting confidentiality.

b. Furniture shall be in good repair.

c. There shall be a written plan outlining procedures to be followed in the event of fire or tornado. These plans shall be conspicuously displayed at the facility.

**155.21(23) *Therapeutic environment.*** All programs shall establish an environment that enhances the positive self-image of client/patients and preserves their human dignity. The grounds of the program shall have adequate space for the program to carry out its stated goals. When client/patient needs or program goals involve outdoor activities, these activities and programs shall be appropriate to the ages and clinical needs of the client/patient.

a. All services shall be accessible to people with disabilities or the program shall have written policies and procedures that describe how people with disabilities can attain access to the facility for necessary services. All programs shall comply with the Americans with Disabilities Act.

b. The waiting or reception areas shall be of adequate size, have appropriate furniture and be located so as to ensure confidentiality of client/patients in session or receiving services.

c. Program staff shall be available in waiting or reception areas so as to address the needs of the client/patients and visitors.

d. The program shall have written policies and procedures regarding chemical substances in the facility.

e. Smoking shall be prohibited within any facilities or any portion of a facility used for outpatient drug and alcohol treatment services and programs. Smoking shall be prohibited, except in designated areas within facilities or portions of facilities used for inpatient and residential drug and alcohol treatment services.

f. A program or person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under 18 years of age, and a person under 18 years of age shall not smoke, use, purchase, or attempt to purchase, any tobacco, tobacco products, or cigarettes.

g. There shall be written policies and procedures to address the following:

(1) There shall be a policy to inform client/patients of their legal and human rights at the time of admission;

(2) Client/patient communication, opinions, or grievances, with a mechanism for redress;

(3) Prohibition of sexual harassment; and

(4) Client/patient rights to privacy.

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9774B, IAB 10/5/11, effective 11/9/11]

**641—155.22(125,135) Inpatient, residential, and halfway house safety.** Specific safety standards for inpatient, residential and halfway house safety.

**155.22(1) *Health and fire safety inspections.*** Inpatient, residential and halfway house substance abuse treatment facilities shall comply with appropriate department of inspections and appeals rules, state fire marshal's rules and fire ordinances, and appropriate local health, fire, occupancy code, and safety regulations. The program shall maintain documentation of such compliance.

a. Inpatient, residential and halfway house substance abuse treatment facilities required to be licensed by the department of public health shall comply with standards for food service sanitation in accordance with rules promulgated by the department of inspections and appeals pursuant to 481—Chapter 32 of the Iowa Administrative Code and Iowa Code chapter 137B.

b. Food service operations in substance abuse inpatient, residential, and halfway house treatment facilities shall be inspected on an annual basis by the department of inspections and appeals or appropriate local boards of health having agreements with the department of inspections and appeals to conduct such inspections.

c. The use of door locks or closed sections shall be approved by the fire marshal, professional staff and governing body.

**155.22(2) *Emergency preparedness.*** The inpatient, residential and halfway house programs shall have an emergency preparedness program designed to provide for the effective utilization of available resources so that client/patient care can be continued during a disaster.  
[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.23(125,135) Specific standards for inpatient, residential, and halfway house service.** An inpatient, residential, and halfway house service shall be designed to provide comprehensive diagnostic, treatment and rehabilitation services in a 24-hour therapeutic setting.

**155.23(1) *Hours of operation.*** An inpatient, residential, and halfway house service shall operate seven days per week, 24 hours a day.

**155.23(2) *Meals.*** Inpatient and residential programs shall provide a minimum of three meals per day to each client/patient enrolled in the program. Inpatient, residential, and other programs where client/patients are not present during mealtime shall make provisions to make available the necessary meals. Menus shall be prepared in consultation with a dietitian. If client/patients are allowed to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health regulations and food hygiene.

**155.23(3) *Consultation with counsel.*** An inpatient, residential, and halfway house program shall have policies and procedures which will ensure that all client/patients in a facility have opportunity for and access to consultation with legal counsel at any reasonable time.

**155.23(4) *Visitation with family and friends.*** An inpatient, residential, and halfway house program shall have policies and procedures which will ensure opportunities for continuing contact with family and friends. If such visiting opportunities are clinically contraindicated, they shall be approved on an individual basis by the treatment supervisor and subject to review by the executive director. The justification for restrictions shall be documented in the client/patient record. If clinical indications require restrictions on visitation, such restrictions shall be evaluated for continuing therapeutic effectiveness every seven days by the treatment supervisor and primary counselor.

The program shall establish visiting hours which shall be conspicuously displayed at the facility and in such a manner to be visible to those entering the facility.

**155.23(5) *Telephone use.*** An inpatient, residential, and halfway house program shall have policies and procedures which allow client/patients to conduct private telephone conversations with family and friends at the facility. If such are clinically contraindicated, they shall be approved on an individual basis by the treatment supervisor and subject to review by the executive director. The justification for restrictions shall be documented in the client/patient record. If clinical indications require restrictions, such shall be evaluated for continuing therapeutic effectiveness every seven days by the treatment supervisor and primary counselor. Access to the telephone shall be available during reasonable hours as defined by the program in written policies and procedures except for emergency calls, which may be received at the time of the call, or made when necessary.

**155.23(6) *Written communication.*** An inpatient, residential, and halfway house program shall have policies and procedures which ensure that neither mail nor other communications to or from a client/patient in a facility is intercepted, read, or censored.

**155.23(7) *Facility.*** An inpatient, residential, and halfway house facility shall be safe, clean, well-ventilated, properly heated, in good repair, and free from vermin to ensure the well-being of residents.

*a. Client/patient bedrooms shall include:*

- (1) A sturdily constructed bed;
- (2) A clean mattress protected with a clean mattress pad;
- (3) A designated space for personal possessions and for hanging clothing in proximity to the sleeping area; and
- (4) Windows in bedrooms shall have curtains or window blinds.

*b. Sleeping areas shall include:*

- (1) Doors for privacy;
- (2) Partitioning or placement of furniture to provide privacy for all client/patients;

(3) The number of client/patients in a room shall be appropriate to the goals of the facility and to the ages, developmental levels, and clinical needs of the client/patients;

(4) Client/patients will be allowed to keep and display personal belongings and add personal touches to the decoration of their rooms in accordance with program policy;

(5) Staff shall respect the client/patient's right to privacy by knocking on the door of the client/patient's room before entering.

c. Clean linen, towels and washcloths shall be available minimally on a weekly basis and more often as needed.

d. Bathrooms shall provide residents with facilities necessary for personal hygiene and personal privacy, including:

(1) A safe supply of hot and cold running water which is potable;

(2) Clean towels, electric hand dryers or paper towel dispensers, and an available supply of toilet paper and soap;

(3) Natural or mechanical ventilation capable of removing odors;

(4) Tubs or showers shall have slip-proof surfaces;

(5) Partitions with doors which provide privacy if a bathroom has multiple toilet stools;

(6) Toilets, wash basins, and other plumbing or sanitary facilities shall at all times be maintained in good operating condition; and

(7) The ratio of bathroom facilities to residents shall be one tub or shower head per 12 residents, one wash basin per 12 residents and one toilet per 8 residents.

(8) If the facility is coeducational, the program shall designate and so identify separate bathrooms for male and female client/patients.

e. There shall be a written plan outlining procedures to be followed in the event of fire or tornado. These plans shall be conspicuously displayed on each floor or dormitory area that client/patients, residents, or visitors occupy at the facility and shall be explained to all inpatient, residential, and halfway house client/patients as a part of their orientation to the program. Fire drills shall be conducted at least monthly and tornado drills conducted during the tornado season from April through October.

f. Written reports of annual inspections by state or local fire safety officials shall be maintained with records of corrective action taken by the program on recommendations articulated in such reports.

g. Smoking shall not be permitted in bedrooms.

h. Every facility shall have an adequate water supply from an approved source. A municipal water system shall be considered as meeting this requirement. Private water sources shall be tested annually.

i. The facility shall allow for the following:

(1) Areas in which a client/patient may be alone when appropriate; and

(2) Areas for private conversations with others.

j. Articles of grooming and personal hygiene that are appropriate to the client/patient's age, developmental level, and clinical state shall be readily available in a space reserved near the client/patient's sleeping area. If clinically indicated as determined by the treatment supervisor, a client/patient's personal articles may be kept under lock and key by staff. If access to potentially dangerous grooming aids or other personal articles is contraindicated for clinical reasons, a member of the professional staff shall explain to the client/patient the conditions under which the articles may be used; and the clinical rationale for these conditions shall be documented in the client/patient case record.

k. Housekeeping. If client/patients take responsibility for maintaining their own living quarters and for day-to-day housekeeping activities of the program, these responsibilities shall be clearly defined in writing and be a part of the client/patient orientation program. Staff assistance and equipment shall be provided as needed.

l. Clothing. Client/patients shall be allowed to wear their own clothing in accordance with program rules. If clothing is provided by programs, it shall be suited to the climate and appropriate. In addition, a laundry room shall be accessible so client/patients may wash their clothing.

m. Noise-producing equipment. The program shall ensure that the use and location of noise-producing equipment and appliances, such as television sets, radios, and CD players do not interfere with clinical and therapeutic activities.

*n.* Recreation and outdoor activities. The program shall provide recreation and outdoor activities, unless contraindicated for therapeutic reasons.

**155.23(8) Religion-culture.** The inpatient, residential, and halfway house program shall have a written description of its religious orientation, particular religious practices that are observed, and any religious restrictions. This description shall be provided to the client/patients, parent(s) or guardian, and the placing agency at the time of admission in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. This information shall also be available to adults during orientation. The client/patient shall have the opportunity to participate in religious activities and services in accordance with the client/patient's own faith or that of a minor client/patient's parent(s) or guardian. The facility shall, when necessary and reasonable, arrange transportation for religious activities.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.24(125,135) Specific standards for inpatient, residential, and halfway house services for juveniles.** An inpatient, residential, and halfway house program that houses one or more juveniles under the age of 18 must also comply with the following standards.

**155.24(1) Personal possessions.** The inpatient, residential, and halfway house program shall allow a child to bring personal belongings. However, the inpatient, residential, and halfway house program shall, as necessary, limit or supervise the use of these items. In addition, the program shall ensure that each child has adequate, clean, well-fitting, attractive, and seasonable clothing as required for health, comfort, and physical well-being. The clothes should be appropriate to age, sex and individual needs.

**155.24(2) Family involvement.** There shall be written policies and procedures for family involvement that shall encourage continued involvement of the family.

**155.24(3) Children's money.** Money earned or received as a gift or as an allowance by a child in care shall be deemed to be that child's personal property. The program shall have a written policy on the child's use of funds. The program shall maintain a separate accounting system for children's money.

**155.24(4) Discipline.** The inpatient, residential, and halfway house program shall have written policies and procedures regarding methods used for control and discipline of children which shall be available to all staff and to the child's family. Agency staff shall be in control of and responsible for discipline at all times. Discipline shall not include the withholding of basic necessities such as food, clothing, or sleep.

*a.* The program shall have a policy that clearly prohibits staff or the children from utilizing corporal punishment as a method of disciplining or correcting children. This policy is to be communicated, in writing, to all staff of the facility.

*b.* Behavior expectations. The program shall make available to the child and the child's parents or guardian written policies regarding the following areas:

- (1) The general expectations of behavior including the program's rules and practices.
- (2) The range of reasonable consequences that may be used to deal with inappropriate behavior.

**155.24(5) Number of staff.** The program shall have 7 days per week, 24-hour per day coverage. The number and qualifications of the staff will vary depending on the needs of the children.

*a.* Inpatient, residential, halfway house programs, and community residential facilities as defined in 441—Chapter 114, shall have an on-call system operational 24 hours a day to provide supervisory consultation. The program shall have a written plan documenting this system. During prime programming time, there shall be at least a one-to-eight, staff-to-client/patient ratio.

*b.* Comprehensive residential facilities, as defined in 441—Chapter 115, shall have at least a one-to-five, staff-to-client/patient ratio during prime programming time. A staff person shall be in each living unit at all times when children are in residence, and there shall be a minimum of three nighttime checks between the hours of 12 midnight and 6 a.m. These checks shall be logged. Policies and procedures for nighttime checks shall be in writing.

*c.* The program's prime programming time shall be defined in writing.

**155.24(6) Illness, accident, death, or absence from the inpatient, residential, and halfway house program.** The program shall have written policies and procedures to notify the child's parent(s),

guardian, and responsible agency of any serious illnesses, incidents involving serious bodily injury or absence, or circumstances causing removal of the child from the facility in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. In the event of the death of a child, the program shall immediately notify the physician, the child's parent(s) or guardian, the placing agency, and the appropriate state authority.

**155.24(7) *Educational services.*** An educational program shall be available for each child in accordance with abilities and needs. The educational and teaching standards established by the state department of public instruction shall be met.

**155.24(8) *Needs of the juvenile.*** Program services and rules shall be designed to meet individual needs of the juvenile.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.25(125,135) Specific standards for assessment and evaluation programs.**

**155.25(1) *Definitions.*** Rescinded IAB 6/2/10, effective 7/1/10.

**155.25(2) *Governing body.*** Each program shall have a formally designated governing body that is representative of the community being served, complies with Iowa Code chapter 504 and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for the requirements to have malpractice and liability insurance.

*a.* The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, advisory groups, and the executive director. These bylaws shall be reviewed and revised by the governing body as necessary.

*b.* The bylaws shall minimally specify the following:

- (1) The type of membership;
- (2) The term of appointment;
- (3) The frequency of meetings;
- (4) The attendance requirements; and
- (5) The quorum necessary to transact business.

*c.* Minutes of all meetings shall be kept and be available for review by the department and shall include, but not necessarily be limited to:

- (1) Date of the meeting;
- (2) Names of members attending;
- (3) Topics discussed; and
- (4) Decisions reached and actions taken.

*d.* The duties of the governing body shall include, but not necessarily be limited to, the following:

- (1) Appointment of a qualified executive director who shall have the responsibility and authority for the management of the program in accordance with the governing body's established policies;
- (2) Establish an effective control which will ensure that quality services are delivered;
- (3) Review and approve the program's annual budget; and
- (4) Approve all contracts.

*e.* The governing body shall develop and approve policies for the effective operation of the program.

*f.* The governing body shall be responsible for all funds, equipment, supplies and the facility in which the program operates. The governing body shall be responsible for the appropriateness and adequacy of services provided by the program.

*g.* The governing body shall at least annually prepare a report which will include, but not necessarily be limited to, the following items:

- (1) The name, address, occupation, and place of employment of each governing body member;
- (2) Any family relationship which a member of the governing body may have to a program staff member; and
- (3) Where applicable, the names and addresses of all owners or controlling parties whether they are individuals, partnerships, corporation body, or subdivision of other bodies, such as a public agency, or religious group, fraternity, or other philanthropic organization.

*h.* The governing body shall assume responsibility in seeing that the program has malpractice and liability insurance and a fidelity bond.

**155.25(3) *Executive director.*** This individual shall have primary responsibility for the overall program operations. The duties of the executive director shall be clearly defined by the governing authority, when applicable.

**155.25(4) *Clinical oversight.*** The program shall have appropriate clinical oversight to ensure quality of clinical services provided to client/patients. This may be provided in house or through a consultation agreement.

**155.25(5) *Staff development and training.*** There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain a professional license or substance abuse certification as specified in 155.21(8) will meet the requirement of this subrule.

*a.* Evidence of professional education, substance abuse certification or licensing as specified in 155.21(8), or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, tuberculosis, community resources; screening, evaluation, HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

*b.* Staff development shall ensure that staff members are kept informed of new developments in the field of substance abuse screening, evaluation and placement.

**155.25(6) *Management information system.*** Programs receiving Medicaid or state funding and programs performing OWI evaluation in accordance with 641—Chapter 157 shall submit client/patient data to the Iowa Department of Public Health, Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with substance abuse reporting system procedures.

**155.25(7) *Procedures manual.*** All programs shall develop and maintain a procedures manual. This manual shall define the program's policies and procedures to reflect the program's activities. Revisions shall be entered with the date, name and title of the individual making the entries. This manual shall contain all of the required written policies, procedures, definitions, and all other documentation required by these standards in the following areas:

- a.* Legal authority and organization;
- b.* Personnel policies, except for sole practitioner;
- c.* Emergency medical services;
- d.* Staff development;
- e.* Maintenance of client/patient case records;
- f.* Confidentiality of client/patient records;
- g.* Clinical services, such as placement screening, evaluation and assessment; and
- h.* Relationship with other providers.

**155.25(8) *Fiscal management.*** The program shall ensure proper fiscal management.

*a.* The fiscal management system shall be maintained in accordance with generally accepted accounting principles, including internal controls to reasonably protect the agency assets.

*b.* The OWI evaluation fee schedule shall be made public, and the client/patient shall be informed of the fee schedule at the time of scheduling the evaluation.

*c.* There shall be an insurance program that provides for the protection of the physical and financial resources of the program which provides coverage for all people, buildings, and equipment. The insurance program shall be reviewed annually by the governing body.

**155.25(9) *Personnel.*** Written personnel policies and procedures shall be developed, except for the sole practitioner.

*a.* These policies and procedures shall address the following areas:

- (1) Recruitment, selection, and certification of staff members;
- (2) Wage and salary administration;
- (3) Promotions;

- (4) Employee benefits;
- (5) Working hours;
- (6) Vacation and sick leave;
- (7) Lines of authority;
- (8) Rules of conduct;
- (9) Disciplinary actions and termination of employees;
- (10) Methods for handling cases of inappropriate client/patient care;
- (11) Work performance appraisal;
- (12) Employee accidents and safety;
- (13) Employee grievances; and
- (14) Policy on staff persons suspected of using or abusing substances.

b. The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.

c. There shall be written job descriptions that reflect the actual job situation.

d. The written personnel policies and practices shall include a mechanism for a written evaluation of personnel performance on at least an annual basis. There shall be evidence that this evaluation is reviewed with the employee and that the employee is given the opportunity to respond to this evaluation.

e. There shall be a personnel record kept on each staff member. These records shall contain as applicable:

- (1) Verification of training, experience, and all professional credentials relevant to the position;
- (2) Job performance evaluations;
- (3) Incident reports;
- (4) Disciplinary actions taken; and
- (5) Documentation of review and adherence to confidentiality laws and regulations. This review and agreement shall occur prior to assumption of duties.

f. There shall be written policies and procedures designed to ensure confidentiality of personnel records and a delineation of authorized personnel who have access to various types of personnel information.

**155.25(10) Professional qualifications.**

a. Personnel conducting screenings, placements, and assessments in accordance with this chapter shall meet the requirements of 155.21(8) "i."

b. The sole practitioner shall subscribe to a code of conduct found in professional certification or licensure as specified in 155.21(8).

**155.25(11) Child abuse/dependent adult abuse/criminal history background check.**

a. Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. Any employee found to be in violation of Iowa Code sections 232.67 through 232.70, as substantiated by a department of human services' investigation shall be subject to the program's policies concerning dismissal.

b. For each employee working within a juvenile services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the following, at a minimum, shall be documented:

(1) Documentation of a criminal history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed, and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect, or sexual abuse or dependent adult abuse.

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central registry for any substantiated reports of child abuse, neglect, or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

(4) A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

c. Each treatment staff member shall complete two hours of training relating to the identification and reporting of child abuse and dependent adult abuse within six months of initial employment, and at least two hours of additional training every five years thereafter.

**155.25(12) Client/patient case record maintenance.** There shall be written policies and procedures governing the compilation, storage and dissemination of individual client/patient case records.

a. These policies and procedures shall ensure that:

(1) The program exercises its responsibility for safeguarding and protecting the client/patient case record against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of client/patient records are kept uniform; and

(3) Entries in the client/patient case record are signed and dated.

b. The program shall provide adequate physical facilities for the storage, processing, and handling of client/patient case records. These facilities shall include suitably locked, secured rooms or file cabinets.

c. Appropriate records shall be readily accessible to those staff members providing services directly to the client/patient and other individuals specifically authorized by program policy.

d. There shall be a written policy governing the disposal and maintenance of client/patient case records. Client/patient case records shall be maintained for not less than seven years from the date they are officially closed.

e. Each file cabinet or storage area containing client/patient case records shall be locked.

f. Policies shall be established that specify the conditions under which information on applicants or client/patients may be released and the procedures to be followed for releasing such information. All such policies and procedures shall be in accordance with HIPAA and the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records, and state confidentiality laws and regulations.

g. Confidentiality of alcohol and drug abuse client/patient records. The confidentiality of alcohol and drug abuse client/patient records maintained by a program is protected by HIPAA and the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records.

h. Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A



program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

**155.25(13) *Placement screening, evaluation and assessment.*** There shall be clearly stated written criteria for determining the eligibility of individuals for placement screening evaluation and assessment.

*a.* The program shall have written policies and procedures governing a uniform process that defines:

- (1) Procedures to be followed when accepting referrals from outside agencies or organizations;
- (2) The types of records to be kept on all individuals applying for services.

*b.* The program shall conduct a screening, which shall include evaluation of the ASAM-PPC-2 for determining the recommendation of individuals for placement into a level of care.

*c.* At the time of screening, documentation shall be made that the individual has been informed of:

- (1) Evaluation costs to be borne by the client/patient, if any;
- (2) Client/patient’s rights and responsibilities; and
- (3) Confidentiality laws, rules and regulations.

*d.* Sufficient information shall be collected during the screening and evaluation process so that a recommendation can be made for placement into a level of care.

*e.* The results of the screening and evaluation process shall be clearly explained to the client/patient and to the client/patient’s family when appropriate. This shall be documented in the client/patient record.

*f.* Programs conducting screenings and evaluations on persons convicted of operating a motor vehicle while intoxicated (OWI), Iowa Code section 321J.2, and persons whose driver’s license or nonresident operating privileges are revoked under chapter 321J, shall do so in accord with and adhere to 641—Chapter 157.

**155.25(14) *Client/patient case record contents.*** There shall be a case record for each client/patient that contains:

- a.* Results of all examinations, tests, and screening and admissions information;
- b.* Reports from referring sources when applicable;
- c.* Reports from outside resources shall be dated and include the name of the resource;
- d.* Multidisciplinary case conference and consultation notes, including the date of the conference or consultation, recommendations made, actions taken, and individuals involved when applicable;
- e.* Correspondence related to the client/patient, including all letters and dated notations of telephone conversations relevant to the client/patient’s treatment;
- f.* Information release forms;
- g.* Records of services provided; and
- h.* Management information system or other appropriate data forms.

**155.25(15) *Emergency medical services.*** The program shall ensure that emergency medical services are available through an affiliation agreement or contract or policy and procedure.

**155.25(16) *Management of care.*** The program shall ensure appropriate level of care utilization by implementing and maintaining the written placement screening.

**155.25(17) *Building construction and safety.*** All buildings in which client/patients receive treatment shall be designed, constructed, equipped, and maintained in a manner that provides for the physical safety of client/patients, personnel, and visitors.

*a.* All programs shall have written policies and procedures to provide a safe environment for client/patients, personnel and visitors. The program shall have written policies and procedures for the maintenance, supervision, and safe use of all its grounds and equipment.

*b.* Safety education shall include orientation of new employees to general facilitywide safety practices.

**155.25(18) *Outpatient facility.*** The outpatient facility shall be safe, clean, well-ventilated, properly heated and in good repair.

*a.* The facility shall be appropriate for providing services available from the program and for protecting client/patient confidentiality.

*b.* Furniture shall be clean and in good repair.

*c.* There shall be a written plan outlining procedures to be followed in the event of fire and tornado. This plan shall be conspicuously displayed at the facility.

*d.* All services shall be accessible to people with disabilities, or the program shall have written policies and procedures that describe how people with disabilities can gain access to the facility for necessary services.

*e.* The program shall ensure confidentiality of client/patients receiving services.

*f.* Smoking shall be prohibited.

**155.25(19) *Client/patient rights.*** The program shall maintain written policies and procedures that ensure that the legal and human rights of client/patients participating in the program are observed and protected.

*a.* There shall be procedures to inform all client/patients of their legal and human rights at the time of evaluation.

*b.* There shall be documentation of the implementation of these procedures.

*c.* There shall be written policies and procedures for:

(1) Client/patient communications, e.g., opinions, recommendations;

(2) Client/patient grievances, with a mechanism for redress;

(3) Prohibition of sexual harassment; and

(4) Implementation of the Americans with Disabilities Act.

*d.* There shall be procedures designed to protect client/patients' rights and privacy.

**155.25(20) *Administrative and procedural standards.*** The program shall comply with the following rules:

*a.* 641—155.2(125,135) Licensing.

*b.* 641—155.3(125,135) Type of licenses.

*c.* 641—155.4(125,135) Nonassignability.

*d.* 641—155.5(125,135) Application procedures.

*e.* 641—155.6(125,135) Application review.

*f.* 641—155.7(125,135) Inspection of licensees.

*g.* 641—155.8(125,135) Licenses—renewal.

*h.* 641—155.9(125,135) Corrective action plan.

*i.* 641—155.10(125,135) Grounds for denial of initial license.

*j.* 641—155.11(125,135) Suspension, revocation, or refusal to renew a license.

*k.* 641—155.12(125,135) Contested case hearing.

*l.* 641—155.13(125,135) Rehearing application.

*m.* 641—155.14(125,135) Judicial review.

*n.* 641—155.15(125,135) Reissuance or reinstatement.

*o.* 641—155.16(125,135) Complaints.

*p.* 641—155.17 Reserved.

*q.* 641—155.18(125,135) Deemed status.

*r.* 641—155.19(125,135) Funding.

*s.* 641—155.20(125,135) Inspection.

This rule is intended to implement Iowa Code section 125.13.

[ARC 8792B, IAB 6/2/10, effective 7/1/10]

**641—155.26 to 155.34** Reserved.

**641—155.35(125,135) Specific standards for opioid treatment programs.** All programs that use methadone or other medications approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the state of Iowa for use in the treatment of opioid addiction shall comply with this rule, HIPAA and Part II, Department of Health and Human

Services, Substance Abuse and Mental Health Services Administration, 42 CFR Part 8, Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction, effective May 18, 2001.

**155.35(1) Definitions.**

*“Accredited opioid treatment program”* means an opioid treatment program that is the subject of a current, valid accreditation from an accreditation body approved by the Substance Abuse and Mental Health Services Administration (SAMHSA).

*“Certification”* means the process by which SAMHSA determines that an opioid treatment program is qualified to provide opioid treatment under the federal opioid treatment standards.

*“Certification application”* means the application filed by an opioid treatment program for purposes of obtaining certification from SAMHSA.

*“Certified opioid treatment program”* means an opioid treatment program that is the subject of a current, valid certification.

*“Comprehensive maintenance treatment”* means maintenance treatment provided in conjunction with a comprehensive range of appropriate medical and rehabilitative services.

*“Detoxification treatment”* means the dispensing of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state within such a period.

*“Interim maintenance treatment”* means detoxification treatment for a period of more than 30 days but not in excess of 180 days.

*“Maintenance treatment”* means the dispensing of an opioid agonist treatment medication at stable dosage levels for a period in excess of 21 days in the treatment of an individual for opioid addiction.

*“Medical and rehabilitative services”* means services such as medical evaluations, counseling, and rehabilitative and other social programs (e.g., vocational and educational guidance, employment placement) that are intended to help patients in opioid treatment programs become or remain productive members of society.

*“Medical director”* means a physician who is licensed to practice medicine in accordance with Iowa Code chapter 148, 150, or 150A and who assumes responsibility for administering all medical services performed by the program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director’s direct supervision.

*“Medication unit”* means a facility established as part of, but geographically separate from, an opioid treatment program from which licensed private practitioners or community pharmacists dispense or administer opioid agonist treatment medications or collect samples for drug testing or analysis.

*“Opiate addiction”* means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opiates despite significant opiate-induced problems. Opiate dependence is characterized by an individual’s repeated self-administration of opiates that usually results in opiate tolerance, withdrawal symptoms, and compulsive drug-taking. Dependency may occur with or without the physiological symptoms of tolerance and withdrawal.

*“Opioid agonist treatment medication”* means any opioid agonist drug that is approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opiate addiction.

*“Opioid drug”* means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

*“Opioid treatment”* means the dispensing of an opioid agonist treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opiate addiction. This term encompasses detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment, comprehensive maintenance treatment, and interim maintenance treatment.

*“Opioid treatment program”* or *“OTP”* means a program or practitioner engaged in opioid treatment or interim maintenance treatment.

*“Patient”* or *“client/patient”* means any individual who undergoes treatment in an opioid treatment program.

*“Program sponsor”* means the person responsible for the operation of the opioid treatment program and who assumes responsibility for all its employees, including any practitioners, agents, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

*“Short-term detoxification treatment”* means detoxification treatment for a period not in excess of 30 days.

*“State authority”* means the Iowa department of public health, division of behavioral health, which regulates the treatment of opiate addiction with opioid drugs.

*“Treatment plan”* means a plan that outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and that specifies the services to be provided and the frequency and schedule for their provision.

**155.35(2) Required approvals.** All opioid treatment programs shall be licensed or approved by the committee and shall maintain all other approvals required by the Drug Enforcement Administration, Substance Abuse and Mental Health Services Administration and the Iowa board of pharmacy in order to provide services.

**155.35(3) Central registry system.** To prevent simultaneous enrollment of a client/patient in more than one program, all opioid treatment programs shall participate in a central registry as established by the division.

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant’s name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA and “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR Part 2, effective June 9, 1987.

*a. Definitions.* For purposes of this subrule:

*“Central registry”* means the system through which the Iowa department of public health, division of behavioral health, obtains client/patient identifying information about individuals applying for maintenance or detoxification treatment for the purpose of preventing an individual’s concurrent enrollment in more than one such program.

*“Opioid treatment program”* means a detoxification or maintenance treatment program which is required to report client/patient identifying information to the central registry and which is located in the state.

*b. Restrictions on disclosure.* A program may disclose client/patient identifying information to a central registry for the purpose of preventing multiple enrollment of a client/patient only if:

(1) The disclosure is made when:

1. The client/patient is admitted for treatment; or
2. The treatment is interrupted, resumed or terminated.

(2) The disclosure is limited to:

1. Client/patient identifying information; and
2. Relevant dates of admission.

(3) The program shall inform the client/patient of the required disclosure prior to admission.

*c. Use of information limited to prevention of multiple enrollments.* Any information disclosed to the central registry to prevent multiple enrollments may not be redisclosed by the registry or such information used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA and 42 CFR Part 2, effective June 9, 1987.

*d. Permitted disclosure by the central registry to prevent a multiple enrollment.* If a program petitions the central registry, and an identified client/patient is enrolled in another program, the registry may disclose:

(1) The name, address, and telephone number of the program in which the client/patient is currently enrolled to the inquiring program; and

(2) The name, address, and telephone number of the inquiring program to the program in which the client/patient is currently enrolled. The programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

**155.35(4) Admission requirements.**

*a.* Prior to or at the time of a client/patient's admission to an opioid treatment program, the program shall conduct a comprehensive assessment so as to determine appropriateness for admission.

*b.* The program shall verify, to the extent possible, the client/patient's name, address, and date of birth.

*c.* The program physician shall determine and document in the client/patient's record that the client/patient is physiologically dependent on narcotic substances and has been so dependent for at least one year prior to admission. A one-year history of addiction means that the client/patient was physiologically dependent on a narcotic at a time one year before admission to a program and was addicted for most of the year preceding admission.

(1) When physiological addiction cannot be clearly documented, the program physician or an appropriately trained staff member designated and supervised by the physician shall record in the client/patient's record the criteria used to determine the client/patient's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate the physician's agreement with the evaluation. The program physician shall make the final determination concerning a client/patient's physiologic dependence and history of addiction. The program physician also shall sign, date, and record a statement that the physician has reviewed all the documented evidence to support a one-year history of addiction and the current physiologic dependence and that in the physician's reasonable clinical judgment the client/patient fulfills the requirements for admission to maintenance treatment. Before the program administers any medication to the client/patient, the program physician shall complete and record the statement documenting addiction and current physiologic dependence.

(2) When a client/patient has voluntarily left an opioid treatment program in good standing and seeks readmission within two years of discharge, the program shall document the following information:

1. Prior opioid treatment of six months or more; and

2. The program physician shall enter in the client/patient's record that in the physician's medical judgment treatment is warranted.

*d.* The program shall collect a drug screening sample for analysis. Where dependence is substantially verified through other indicators, a negative drug screen will not necessarily preclude admission to the program.

*e.* Prior to admission, the program shall confirm with the central registry that the client/patient is not currently enrolled in another opioid treatment program.

*f.* If a potential client/patient has previously been enrolled in another program, the admitting program shall request from the previous program a copy of the client/patient's assessment data, treatment plan, and discharge summary including the type of or reason for discharge. All programs subject to these rules shall promptly respond to such a request upon receipt of a valid release of information.

*g.* A person under the age of 18 is required to have had two documented attempts at short-term detoxification or drug-free treatment to be eligible for maintenance treatment. A one-week waiting period is required after such a detoxification attempt, however, before an attempt is repeated. The program physician shall document in the client/patient's record that the client/patient continues to be, or is again, physiologically dependent on narcotic drugs.

*h.* Program staff shall ensure that a client/patient is voluntarily participating in the program, and the client/patient shall sign a Consent to Treatment Form.

*i.* Pregnant client/patients may be admitted to opioid treatment with the following provisions:

(1) Evidence of current physiological dependency is not needed if the program physician certifies the pregnancy and, in the physician's reasonable judgment, finds treatment to be justified. Documentation of all findings and justifications for admission shall be documented in the client/patient's record by the program physician prior to the initial dose of methadone.

(2) Pregnant client/patients shall be offered comprehensive prenatal care. If the program cannot provide prenatal services, the program shall assist the client/patient in obtaining such services and shall coordinate ongoing care with the collateral provider.

(3) The program physician shall document that the client/patient has been informed of the possible risks to the unborn child from the use of medication and the risks of continued use of illicit substances.

(4) Should a program have a waiting list for admission to the program, pregnant client/patients shall be given priority.

**155.35(5) *Placement, admission and assessment.*** The program shall have written criteria for considering an individual for placement and admission. In addition, the program shall maintain current procedures to ensure that patients are admitted to maintenance treatment by qualified staff who have determined by using accepted medical criteria such as those outlined in the Diagnostic and Statistical Manual for Mental Disorders (DSM IV) that the person is currently addicted to an opioid drug.

a. The program shall have written policies and procedures governing a uniform process that defines:

- (1) The types of information to be gathered on all individuals upon admission;
- (2) Procedures to be followed when accepting referrals from outside agencies or organizations;
- (3) The types of records to be kept on all individuals applying for services.

b. The client/patient assessment (psychosocial history) shall be an analysis and synthesis of the client/patient's status, and shall address the client/patient's strengths, problems, and areas of clinical concern.

It shall be developed within the period of time between admission and the first review date specified for that particular level of care within the continued stay review process. This initial assessment upon admission to treatment services is an expansion of information on the six categories contained within the placement screening document.

c. When an individual refuses to divulge information or to follow the recommended course of treatment, this refusal shall be noted in the case record.

d. At the time of admission, documentation shall be made that the individual has been informed of:

- (1) General nature and goals of the program;
- (2) Rules governing client/patient conduct and infractions that can lead to disciplinary action or discharge from the program;
- (3) The hours during which the services are available;
- (4) Treatment costs, if any, to be borne by the client/patient;
- (5) Client/patient rights and responsibilities;
- (6) Confidentiality laws, rules and regulations; and
- (7) Information on preventing exposure to and transmission of human immunodeficiency virus.

e. Sufficient information shall be collected during the admission process so that the assessment process allows for the development of a complete assessment of the client/patient's status and a comprehensive plan of treatment can be developed.

f. The results of the screening and admission process shall be clearly explained to the client/patient, and to the client/patient's family when appropriate. This shall be documented in the client/patient record.

g. The program physician or designee, who is a qualified medical professional, shall complete a medical evaluation and a current psychological/mental status evaluation of the client/patient prior to the administration of the initial dose of medication. If the history and current psychological/mental status evaluation is completed by an individual other than the program physician, the program shall document in the client/patient's case record that this information was reviewed by the program physician prior to the initial dosage of medication. The medical evaluation shall include but not be limited to:

- (1) A complete medical history;
- (2) An assessment of the client/patient's current psychological and mental status;
- (3) A physical examination including examination for:
  1. Pulmonary, liver, or cardiac abnormalities;
  2. Infectious disease; and
  3. Dermatologic sequela of addiction.
- (4) Laboratory tests including:
  1. Serological test for syphilis; and
  2. Urine screening for drugs.
- (5) Intradermal PPD (tuberculosis skin test) and review of tetanus immunization status; and
- (6) When indicated, an EKG, chest X-ray, pap smear, pregnancy test, sickle cell screening, complete blood count and white cell differential, multiphasic chemistry profile, routine and microscopic urinalysis, or other tests indicated by the client/patient's condition.

**155.35(6) *Treatment plans.*** Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client/patient's case record.

*a.* A treatment plan shall be developed and shall delineate the client/patient's immediate needs and actions required to meet these needs.

*b.* The treatment plan shall be developed as soon after the client/patient's admission as is clinically feasible, but no later than 30 days following admission to an outpatient opioid maintenance treatment program.

*c.* The individualized treatment plan shall minimally contain:

- (1) A clear and concise statement of client/patient's current strengths and needs;
- (2) Clear and concise statements of the short- and long-term goals the client/patient will be attempting to achieve;
- (3) Type and frequency of therapeutic activities in which the client/patient will be participating;
- (4) The staff person(s) to be responsible for the client/patient's treatment; and
- (5) The specific criteria to be met for successful completion of treatment.

*d.* Treatment plans shall be developed in partnership with the client/patient. Comprehensive treatment plans shall be reviewed by the primary counselor and the client/patient as often as necessary, but no less than every 90 days during the first year and semiannually each subsequent year for opioid treatment modalities. Treatment plans shall be reviewed by the program physician on an annual basis.

*e.* The reviews shall consist of a reassessment of the client/patient's current status to include accomplishments and needs and a redefining of treatment goals when appropriate. The date of the review and any change, as well as the individuals involved in the review, shall also be recorded.

*f.* The use of abstract terms, jargon, or slang should be avoided in the treatment plan, and the plan should be written in a manner readily understandable to the average client/patient. The program shall provide the client/patient with copies of all treatment plans upon request.

*g.* Treatment plans shall be culturally and environmentally specific so as to meet the needs of the client/patient. Treatment plans shall be written in a manner readily understandable to the average person or with assistance available to illiterate, handicapped, or mentally impaired client/patients.

**155.35(7) *Progress notes.*** A client/patient's progress and current status in meeting the goals set in the treatment plan, as well as efforts by staff members to help the client/patient achieve these stated goals, shall be recorded in the client/patient's case record. Such information will be noted following each individual counseling session. Group therapy progress notes shall be recorded following each session or summarized at least weekly.

*a.* Entries shall be filed in chronological order and shall include the date services were provided or observations made, the date the entry was made, the signature or initials and staff title of the individual rendering the services. All progress notes shall be entered into the client/patient case record in permanent pen, typewriter, or by computer.

*b.* All entries that involve subjective interpretations of a client/patient's progress should be supplemented with a description of the actual behavioral observations which were the basis for the interpretation.

- c. The use of abstract terms, jargon, or slang should be avoided in progress notes.
- d. If a client/patient is receiving services from an outside resource, the program shall attempt to secure a written copy of status reports and other client/patient records from that resource.
- e. The program shall develop a uniform progress notes format to be used by all clinical staff.

**155.35(8) *Rehabilitative services.*** The program shall have policies and procedures on the minimum attendance for rehabilitative services relative to the client/patient's progress and length of involvement in treatment. The minimum frequency of rehabilitative services shall occur at the same frequency of on-site dosing for client/patients receiving more than two take-home dosages a week in the first year. The minimum frequency for rehabilitative services for client/patients receiving two or fewer take-home dosages shall be weekly. The program shall provide rehabilitative services that are appropriate for the client/patient based on needs identified during the assessment process. The program may provide rehabilitative services through collateral agreements with other service providers. A client/patient who does not comply with the program's rehabilitative service requirements shall be placed on a period of probation as defined by the program, or be required to immediately increase the frequency of clinic attendance for medication and rehabilitative services. If, during a period of probation, the client/patient continues to be in noncompliance with rehabilitation services, the program shall continue to increase the attendance requirement until daily attendance is obtained or the client/patient complies with rehabilitative services. This requirement shall not preclude the program's ability to determine that discharge of a client/patient is warranted for therapeutic reasons or program needs.

**155.35(9) *Medication dispensing.***

a. The program physician shall determine the client/patient's initial and subsequent dose of medication and clinic dosing schedule and shall assume responsibility for the amount of the narcotic drug administered or dispensed and shall record, date, and sign in each client/patient's case record each change in the dosage schedule. The physician shall directly communicate orders to the pharmacy or registered or licensed personnel supervising medication dispensing. The program physician may communicate such orders verbally; however, orders shall be reduced in writing and countersigned within 72 hours by the program physician.

b. The initial dose of medication shall not exceed 30 milligrams, and the total dose for the first day shall not exceed 40 milligrams, unless the program physician documents in the client/patient's case record that 40 milligrams did not suppress opiate abstinence symptoms. A client/patient transferring into the program or on a guest-dosing status may receive an initial dosage of no more than the last daily dosage authorized by the former or primary program.

(1) Medication shall be administered by a professional authorized by law.

(2) No medication shall be administered unless the client/patient has completed admission procedures, unless the client/patient enters the program on a weekend and the central registry cannot be contacted. If, in the clinical judgment of the program physician, a client/patient is experiencing an emergency situation, the admission procedures may be completed on the following workday.

c. Administration.

(1) Take-home medication shall be labeled in accordance with state and federal law and have childproof caps.

(2) A dispensing log shall be kept in the dispensing area and in the client/patient case records which shall document the amount of medication dispensed and include the signature of the staff member authorized to dispense the medication. No dose shall be dispensed until the client/patient has been positively identified and the dosage amount is compared with the currently ordered and documented dosage level.

(3) Ingestion shall be observed and verified by the staff person authorized to dispense the medication.

(4) The program physician shall record, date, and sign in each client/patient's case record each change in the dosage schedule. Daily dosages of medications in excess of 100 milligrams shall be dispensed only with the approval of the program physician and shall be documented and justified in the client/patient's case record.



**155.35(10)** *Take-home or unsupervised medication use.*

a. Take-home medication may be given to client/patients who demonstrate a need for a more flexible schedule in order to enhance and continue rehabilitative progress. For client/patients receiving take-home medication, the program shall document the following requirements:

- (1) Absence of recent abuse of drugs (narcotic or nonnarcotic), including alcohol;
- (2) Regular attendance at the clinic;
- (3) Attendance at a licensed or approved treatment program for rehabilitative services (e.g., programs are considered approved when licensed or approved in accordance with Iowa Code chapter 125);
- (4) Absence of recent criminal activity;
- (5) Stable home environment and social relationships;
- (6) Active employment or participation in school, or similar responsible activities related to employment, education or vocation; and
- (7) Assurance that medication can be safely transported and stored by the client/patient for the client/patient's own use.

b. Prior to granting take-home privileges, the program physician shall document in the client/patient's case record that all the above criteria have been considered and that, in the physician's professional judgment, the risk of diversion or abuse is outweighed by the rehabilitative benefits to be derived.

c. If the client/patient meets the above criteria, the client/patient may receive take-home medication according to the following guidelines:

- (1) During the first 90 days of treatment, the take-home supply is limited to a single dose each week;
- (2) During the second 90 days of treatment, the take-home supply is limited to two doses per week;
- (3) In the remaining months of the first year, a patient may be given a maximum six-day supply of take-home medication;
- (4) After one year of continuous treatment, a patient may be given a maximum two-week supply of take-home medication;
- (5) After two years of continuous treatment, a patient may be given a maximum one-month supply of take-home medication; and
- (6) Take-home medication shall not be dispensed to patients in interim maintenance treatment or detoxification.

d. If a client/patient is unable to conform to the applicable mandatory schedule, a revised schedule may be permitted provided the program receives an exception to these rules from the division and SAMHSA, when applicable. A copy of the written exception shall be placed in the client/patient's case record. The division will consider exceptions only in unusual circumstances. When a program is applying for less frequent pickups for client/patients, approval will be based on considerations in addition to distance when another program exists within 25 miles of the client/patient's residence.

e. Should a patient receiving take-home medication provide a drug screen that is confirmed either positive for substances or negative for the prescribed medication, the program shall ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

(1) The program physician shall place the client/patient on three months' probation, as defined by the program, or increase the client/patient's frequency of clinic dosing after considering the client/patient's overall progress and length of involvement in the program.

(2) Should the client/patient provide a drug screen that is positive for substances or negative for medication during a period of probation, the program physician shall increase the client/patient's frequency of clinic attendance for dosage pickup for at least three months. If after the three-month period the client/patient meets the eligibility criteria, the client/patient may return to the previous take-home schedule.

f. Take-home or unsupervised dosages of medication in excess of 100 milligrams may be dispensed by the program physician when the need for those dosages is carefully reviewed and considered and justified in the client/patient's case record based on the physician's clinical judgment.

**155.35(11) *Drug testing.*** Each program shall establish policies and procedures for the collection of drug-screening specimens and utilization of results.

*a.* The program shall ensure that an initial drug-screening test or analysis is completed for each prospective client/patient and that at least eight additional random tests or analyses are performed on each client/patient during the first year in maintenance treatment and that at least quarterly random tests or analyses are performed on each client/patient in maintenance treatment for each subsequent year. When a sample is collected from each client/patient for such a test or analysis, it shall be done in a manner that minimizes opportunity for falsification. Each test or analysis shall be analyzed for opiates, methadone, amphetamines, cocaine, and barbiturates. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must be analyzed for any of those drugs as well. Any laboratory that performs the testing required under this rule shall be in compliance with all applicable federal proficiency testing and licensing standards and all applicable state standards.

*b.* The program shall ensure that test results are not used as the sole criterion to force a client/patient out of treatment but are used as a guide to change treatment approaches. The program shall also ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

**155.35(12) *Client/patient case records.*** The program shall have written policies and procedures governing the compilation, storage and dissemination of individual client/patient case records.

*a.* These policies and procedures shall ensure that:

(1) The program exercises its responsibility for safeguarding and protecting the client/patient case records against loss, tampering, or unauthorized disclosure of information;

(2) Content and format of client/patient case records are kept uniform; and

(3) Entries in the client/patient case record are signed and dated.

*b.* The program shall provide adequate physical facilities for the storage, processing, and handling of client/patient case records. These facilities shall include suitably locked, secured rooms or file cabinets.

*c.* Appropriate records shall be readily accessible to those staff members providing services directly to the client/patient and other individuals specifically authorized by program policy. Records should be kept in proximity to the area in which the client/patient normally receives services.

*d.* The program shall have a written policy governing the disposal and maintenance of client/patient case records. Client/patient case records shall be maintained for not less than seven years from the date they are officially closed.

*e.* Confidentiality of alcohol and drug abuse client/patient case records. The confidentiality of alcohol and drug abuse client/patient case records maintained by a program is protected by HIPAA and the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records. The program is precluded from identifying that a client/patient attends the program or disclosing any information identifying a client/patient as an alcohol or drug abuser unless:

(1) The client/patient consents in writing;

(2) The disclosure is allowed by a court order;

(3) The disclosure is made to medical personnel in a medical emergency; or

(4) The disclosure is required by law.

*f.* Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), "Notice Iowa Code 321J—Confidential Medical Record," reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

**155.35(13) *Diversion prevention plan.***

*a.* The program shall develop a diversion identification and prevention plan that:

(1) Outlines methods by which the program shall detect possible diversion of take-home medication; and

(2) Actions to be taken when diversion is identified or suspected.

*b.* The program shall establish and implement proactive procedures to reduce the likelihood or possibility of diversion.

**155.35(14) *Quality improvement.*** The program shall have an ongoing quality improvement process designed to objectively and systematically monitor and evaluate the quality and appropriateness of client/patient care, pursue opportunities to improve client/patient care, and resolve identified problems. Quality improvement efforts shall be facilitywide in scope and include review of clinical and professional services.

*a.* The program shall have a written plan for a quality improvement process. The written plan shall describe the objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities.

*b.* The program shall establish written policies and procedures to describe and document the quality improvement process, including the monitoring and evaluation activities of the program. The policies and procedures shall ensure that:

(1) Information is collected or screened by a designated individual, individuals, or committee. Quality improvement activities may be contracted through all outside resources;

(2) Objective criteria are utilized in the development and application of criteria relating to the care or service the program provides; and

(3) Objective criteria are utilized in the evaluation of the information collected in order to identify important problems in, or opportunities to improve, client/patient care and clinical performance.

*c.* The program shall document that the quality of client/patient care is improved and identified problems are resolved through appropriate actions taken by the program's administrative and supervisory staff and through professional staff functions.

*d.* Necessary information shall be communicated among program components, modalities, or services when problems or opportunities to improve client/patient care involve more than one program component or service.

*e.* The program shall ensure that the status of identified problems is tracked to ensure improvement or resolution.

*f.* The program shall ensure that information from program components or services and the findings of discrete quality improvement activities are used to detect trends, patterns of performance, and potential problems that affect more than one program component or service.

*g.* The objectives, scope, organization, and effectiveness of the quality improvement process are evaluated at least annually and revised as necessary.

**155.35(15) *Interim maintenance treatment.***

*a.* An approved program may offer interim maintenance treatment when, due to capacity, the program cannot place the client/patient in a program offering comprehensive services within 14 days of the client/patient's application for admission.

*b.* An approved program may provide interim maintenance treatment only if the program also provides comprehensive maintenance treatment to which interim maintenance treatment client/patients may be transferred.

*c.* Interim maintenance treatment program approval. Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment, the program must receive approval of both the U.S. Food and Drug Administration and the division of behavioral health and:

(1) The program director must certify that the program seeking such authorization is unable to place client/patients in a public or private nonprofit program within a reasonable geographic area within 14 days of the client/patient's application for admission; and

(2) That interim maintenance treatment will not reduce the capacity of the program's comprehensive maintenance treatment.

(3) Client/patients admitted to interim maintenance treatment shall be transferred to comprehensive maintenance treatment within 120 days of admission.

*d. Minimum standards for interim maintenance treatment.* The program may admit a client/patient who is eligible for comprehensive maintenance treatment to interim maintenance treatment if the client/patient cannot be placed in a public or private nonprofit comprehensive program within a reasonable geographic area and within 14 days of application for services. An initial drug screen, and at least two others, shall be taken from the client/patient during the maximum admission period of 120 days. A program shall establish and follow reasonable criteria for determining the transfer of client/patients to comprehensive maintenance treatment. These transfer criteria shall be in writing, available for inspection, and shall include at a minimum a preference for the transfer of pregnant client/patients. Interim maintenance shall be conducted in accordance with all applicable federal regulations and state rules. The program shall notify the division when a client/patient begins interim treatment; when a client/patient leaves interim treatment, and when a client/patient transfers to comprehensive maintenance treatment. Such notifications shall be documented by the program in the client/patient's case record. All requirements for comprehensive maintenance treatment apply to interim maintenance treatment with the following exceptions:

- (1) The medication is required to be administered daily under observation;
- (2) Take-home medication is not allowed;
- (3) Initial and comprehensive treatment plans are not required;
- (4) A primary counselor is not required to be assigned to the client/patient; and
- (5) Interim maintenance cannot be provided for longer than 120 days in any 12-month period.

**155.35(16) *Complaints, investigations, suspension and revocation.*** The rules relating to complaints, investigations, suspension and revocation as outlined in 641—155.11(125,135) through 641—155.16(125,135) shall apply to opioid treatment programs.

**155.35(17) *Deemed status.*** The committee shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the committee determines that the accreditation is for the same services.

*a. National accreditation bodies.* The national accreditation bodies currently recognized as meeting committee criteria for possible deemed status are:

- (1) Joint Commission.
- (2) Council on Accreditation of Rehabilitation Facilities (CARF).
- (3) Council on Accreditation of Children and Family Services (COA).
- (4) American Osteopathic Association (AOA).

*b. Credentials and expectations of accreditation bodies.*

(1) The accreditation credentials of the bodies shall specify the types of organizations, programs, and services the bodies accredit and targeted population groups, if appropriate.

(2) Deemed status means that the committee and division shall recognize, in lieu of their own review, an outside body's review, assessment and accreditation of a hospital-based or freestanding community-based substance abuse program's operations, functioning, and services that correspond to those described in this chapter.

*c. Responsibilities of programs granted deemed status.*

(1) When a program receives accreditation and is then granted licensure through deemed status, the program shall continue to be responsible for meeting all requirements in accordance with this chapter and all applicable laws and regulations.

(2) If a program that is nationally accredited requests deemed status for services not covered by the national accreditation body's standards, but covered by this chapter, the licensing for those services shall be conducted by the division.

(3) Copies of the entire CARF, Joint Commission, COA or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

(4) The program shall submit to the division accreditation corrective plans or written conditions to accreditation.

(5) The program shall be currently accredited by a committee-approved national accreditation body for services that are outlined in this chapter.

(6) The program shall advise the division of any changes in the program's accreditation status, address, executive director/CEO, facility locations, or any other changes to the program/organization within 30 days of such changes.

(7) All survey reports for the hospital-based or freestanding community-based substance abuse treatment program from the accrediting or licensing body shall be sent to the division.

(8) For a program granted deemed status, the period of deemed status shall coincide with the period of time that program is awarded accreditation by the national accreditation body. However, under no circumstances shall it be longer than three years.

*d.* The committee and division shall retain the following responsibilities and rights when deemed status is granted to program/organizations:

(1) The division may conduct focused or general on-site follow-up visits as determined appropriate.

(2) The division shall investigate all complaints that are under the authority of this chapter and recommend and require corrective action or other sanctions in accordance with 641—155.16(125,135). All complaints, findings and required corrective action may be reported to the accreditation body.

(3) The committee shall review and act upon deemed status if necessary when complaints have been founded, when national accreditation bodies find instances of noncompliance with accreditation, when the accreditation status of the program expires without renewal, when the program's accreditation status is downgraded or withdrawn by the accreditation body, or when focused reviews find instances of noncompliance.

*e.* Continuation of deemed status. The program shall submit a copy of all CARF, Joint Commission, COA or AOA behavioral health accreditation survey reports to the division.

**155.35(18) Personnel qualifications.**

*a.* Personnel providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet the requirements of 155.21(8) "i."

*b.* Personnel in opioid treatment programs shall subscribe to a code of conduct found in professional certification or licensure as specified in 155.21(8).

[ARC 8792B, IAB 6/2/10, effective 7/1/10; ARC 9534B, IAB 6/1/11, effective 7/6/11]

These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

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<sup>1</sup> Effective date of Ch 3 delayed by the Administrative Rules Review Committee 70 days from 8/2/78. Delay suspended by the Administrative Rules Review Committee at their meeting held on 9/11/78.

<sup>2</sup> Effective date of 643—3.35(125) delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 1994; on June 15, 1994, the Committee voted to delay the rule until adjournment of the 1995 General Assembly.

## CHAPTER 4 BOARD ADMINISTRATIVE PROCESSES

### **645—4.1(17A) Definitions.**

*“Board”* means the professional licensing board of any of the following: athletic training, barbering, behavioral science, chiropractic, cosmetology arts and sciences, dietetics, hearing aid dispensers, massage therapy, mortuary science, nursing home administrators, optometry, physical and occupational therapy, physician assistants, podiatry, psychology, respiratory care, sign language interpreters and transliterators, social work, and speech pathology and audiology.

*“Board office”* means the office of the administrative staff of each professional licensing board.

*“Department”* means the department of public health.

*“Disciplinary proceeding”* means any proceeding under the authority of each board pursuant to which licensee discipline may be imposed.

*“License”* means a license to practice the specific practice governed by one of the boards defined in this chapter.

*“Licensee”* means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

*“Overpayment”* means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

**645—4.2(17A) Purpose of board.** The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

**4.2(1)** Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

**4.2(2)** Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

**4.2(3)** Imposing discipline on licensees as provided by statute or rule.

### **645—4.3(17A,147,272C) Organization of board and proceedings.**

**4.3(1)** Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

**4.3(2)** Each board shall elect a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

**4.3(3)** Each board shall hold at least one meeting annually.

**4.3(4)** A majority of the members of each board shall constitute a quorum.

**4.3(5)** Board meetings shall be governed in accordance with Iowa Code chapter 21.

**4.3(6)** The professional licensure division shall furnish each board with the necessary facilities and employees to perform the duties required by this chapter and shall be reimbursed for all costs incurred from funds collected from licensure-related fees.

**4.3(7)** Each professional licensing board has the authority to:

*a.* Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

*b.* Establish fees.

*c.* Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

*d.* Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The

board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

*e.* Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

*f.* Initiate and impose licensee discipline.

*g.* Monitor licenses that are restricted by a board order.

*h.* Establish and register peer reviewers.

*i.* Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

*j.* Perform any other functions authorized by a provision of law.

[ARC 7586B, IAB 2/25/09, effective 4/1/09; ARC 9768B, IAB 10/5/11, effective 11/9/11]

#### **645—4.4(17A) Official communications.**

**4.4(1)** All official communications, including submissions and requests, may be addressed to the specific professional licensing board, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**4.4(2)** Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

**4.4(3)** Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

**645—4.5(17A) Office hours.** The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

**645—4.6(21) Public meetings.** Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office.

**4.6(1)** At every regularly scheduled board meeting, time will be designated for public comment. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

**4.6(2)** Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

**4.6(3)** The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**4.6(4)** Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

**645—4.7(147) Licensure by reciprocal agreement.** The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of the specific professional board. The applicant shall take the examination required by the board.

#### **645—4.8(147) Duplicate certificate or wallet card.**

**4.8(1)** A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.



**4.8(2)** A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in 645—Chapter 5.

**4.8(3)** If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

**645—4.9(147) Reissued certificate or wallet card.** The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in 645—Chapter 5.

**645—4.10(17A,147,272C) License denial.**

**4.10(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**4.10(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**4.10(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

**645—4.11(272C) Audit of continuing education.** The board may select licensees for audit following license renewal.

**4.11(1)** Licensees shall provide information to the board for auditing purposes as follows:

*a.* The licensee shall provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor and licensee's name.

*b.* Information identified in paragraph 4.11(1) "a" must be submitted within 30 days after the date on the letter of notification of the audit. Extension of time may be granted on an individual basis.

**4.11(2)** For auditing purposes, all licensees must retain the information identified in paragraph 4.11(1) "a" for two years after the biennium has ended.

**4.11(3)** If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The license shall be re-audited following the next renewal period when make-up credit has been accepted.

**4.11(4)** Failure to notify the board of a current mailing address will not absolve the licensee from meeting the audit requirement.

[ARC 9171B, IAB 11/3/10, effective 12/8/10]

**645—4.12(272C,83GA,SF2325) Automatic exemption.**

**4.12(1)** A licensee, except a funeral director, shall be exempt from the continuing education requirement during the license biennium when the licensee:

- a.* Served honorably on active duty in the military service; or
- b.* Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
- c.* Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- d.* Was absent from the state but engaged in active practice under circumstances which are approved by the board.

**4.12(2)** Automatic exemptions for a funeral director are identified in rule 645—102.5(83GA,SF2325).  
[ARC 9239B, IAB 11/17/10, effective 12/22/10]

**645—4.13(272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

1. Failure to cooperate with a board audit.
2. Failure to meet the continuing education requirement for licensure.
3. Falsification of information on the license renewal form.
4. Falsification of continuing education information.

**645—4.14(272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**4.14(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**4.14(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**4.14(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening.** A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a physical, mental, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

**4.15(1) Content of order.** A board order for a physical, mental, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

**4.15(2) Alternatives.** Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an

alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

**4.15(3) *Objection to order.*** A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

**4.15(4) *Closed hearing.*** Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

**4.15(5) *Order and reports confidential.*** An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

**4.15(6) *Admissibility.*** In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

**4.15(7) *Failure to submit.*** Failure of a licensee to submit to a board-ordered physical, mental, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

[ARC 7586B, IAB 2/25/09, effective 4/1/09]

**645—4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt.**

**4.16(1) *Child support noncompliance.*** The board hereby adopts by reference 641—Chapter 192, "Child Support Noncompliance," Iowa Administrative Code.

**4.16(2) *Noncompliance of loan repayment.*** The board hereby adopts by reference 641—Chapter 195, "Student Loan Default/Noncompliance with Agreement for Payment of Obligation," Iowa Administrative Code.

**4.16(3) *Nonpayment of state debt.*** The board hereby adopts by reference 641—Chapter 194, "Nonpayment of State Debt," Iowa Administrative Code.

[ARC 8706B, IAB 4/21/10, effective 5/26/10]

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 261, 272C and 272D.

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**PHARMACY BOARD[657]**

[Prior to 2/10/88, see Pharmacy Examiners, Board of [620], renamed Pharmacy Examiners Board[657]  
under the “umbrella” of Public Health Department by 1986 Iowa Acts, ch 1245; renamed by 2007 Iowa Acts, Senate File 74]

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## CHAPTER 2 PHARMACIST LICENSES

[Prior to 2/10/88, see Pharmacy Examiners[620] Chs 1, 5]

**657—2.1(147,155A) Licensure by examination.** The board of pharmacy, in conjunction with the National Association of Boards of Pharmacy (NABP), shall provide for the administration of pharmacist licensure examinations.

**2.1(1) Components.** Applicants shall take and pass the following components: the North American Pharmacist Licensure Examination (NAPLEX); the Multistate Pharmacy Jurisprudence Examination (MPJE), Iowa Edition. A total scaled score of no less than 75 is required to pass each examination.

**2.1(2) Timeliness.** To be eligible for a license by examination, the candidate shall pass all components in Iowa within a period of one year beginning with the date the candidate passed an initial component. A candidate may request waiver or variance from this deadline pursuant to the procedures and requirements of 657—Chapter 34.

**657—2.2(155A) Application for examination—requirements.** Application for examination shall be on forms provided by the board, and all requested information shall be provided on or with such application. An applicant shall complete the NABP Computerized Examination Registration Form to apply for registration to take the NAPLEX. An applicant shall complete an additional registration form to apply for registration to take the MPJE, Iowa Edition.

**2.2(1) Required information.** The application for examination shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number; name and location of college of pharmacy and date of graduation; one current photograph of a quality at least similar to a passport photograph; and internship experience. Each applicant shall also declare the following: history of prior pharmacist licensure examinations and record of offenses including but not limited to charges, convictions, and fines which relate to the profession or that may affect the licensee's ability to practice pharmacy.

**2.2(2) Sworn statement.** The application for examination shall be made as a sworn statement before a notary public, and the notary public shall witness the signature of the applicant.

**657—2.3(147,155A) Examination fee.** The fee for examination shall consist of the biennial license fee, a processing fee, administration fees, and examination registration fees.

**2.3(1) Fees to the board.** The biennial license fee shall be the fee established by rule 657—2.11(147,155A), including surcharge. The processing fee shall be \$80. No refunds of the processing fee shall be made for cancellation or withdrawal of applications. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, or certified check. No refund of fees shall be made for failure to complete all licensure requirements within the period specified in subrule 2.1(2).

**2.3(2) Fees to NABP.** The examination registration and administration fees shall be amounts determined by NABP, shall be payable to the National Association of Boards of Pharmacy, and shall be in the form of a certified check or money order. Refunds of fees paid to NABP shall be at the discretion of NABP.

**2.3(3) Submission of forms and fees.** The biennial license fee including surcharge, the processing fee, the administration fees, and the examination registration fees shall accompany the applications and registration forms and shall be submitted to the Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or as otherwise directed by the board.

**657—2.4(155A) Internship requirements.** Each applicant shall furnish to the board evidence certifying completion of satisfactory internship experience. The board will not certify an applicant eligible to take any of the examination components prior to receipt of evidence of satisfactory completion of internship experience. Internship experience shall comply with the requirements in 657—Chapter 4. Internship experience completed in compliance with the requirements in 657—Chapter 4 shall be valid for application for licensure in Iowa by examination or score transfer for a period of three years

following graduation from an approved college of pharmacy or as otherwise approved by the board on a case-by-case basis.

**657—2.5(155A) College graduate certification.** Each applicant shall furnish a certificate from a recognized college of pharmacy stating that the applicant has successfully graduated from a school or college of pharmacy with either a bachelor of science degree in pharmacy or a doctor of pharmacy (Pharm.D.) degree. Certification shall be completed by an individual authorized by the college on a form provided by the board. A recognized college of pharmacy is a United States institution that meets the minimum standards of the American Council on Pharmaceutical Education and appears on its list of accredited colleges of pharmacy published by the council as of July 1 of each year.

**657—2.6(147) Reexamination applications and fees.** A candidate who fails to pass the NAPLEX once shall be allowed to schedule a time to retake the examination no less than 91 days following administration of the failed examination. A candidate who fails to pass the MPJE, Iowa Edition, once shall be allowed to schedule a time to retake the examination no less than 30 days following administration of the failed examination. A candidate who fails to pass either examination following a second or subsequent examination may petition the board for permission to take the examination again. Determination of a candidate's eligibility to take an examination more than two times shall be at the discretion of the board.

Each applicant for reexamination shall file an application on forms provided by the board. Processing fees of \$40 each will be charged to take NAPLEX or MPJE, Iowa Edition, and shall be paid to the board as provided in subrule 2.3(1). In addition, candidates will be required to complete the appropriate examination registration application as provided in rule 657—2.2(155A) and to pay to NABP the registration and administration fees for each examination as provided in subrule 2.3(2). All applications, registration forms, and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).

**657—2.7(147) Examination results.** Examination scores and original license certificates shall be provided to each new licensee as soon after the examinations as possible.

**657—2.8(155A) Transfer of examination scores.** The board of pharmacy participates in the NAPLEX score transfer program offered by NABP. This program allows candidates for pharmacist licensure to take the standardized NAPLEX in one state and have the score from that examination transferred to other participant states in which the candidate is seeking licensure. MPJE scores cannot be transferred.

**2.8(1) Score transfer application.** The NAPLEX Score Transfer Form must be completed and submitted with the proper fee to NABP prior to, or postmarked no later than, the date on which the candidate takes the NAPLEX. The fee to NABP for score transfer is determined by NABP. Payment shall be made in the form of a money order or certified check payable to the National Association of Boards of Pharmacy. NABP makes no refunds of score transfer fees.

**2.8(2) Requirements and deadline.** Score transfer candidates shall meet the requirements established in rules 657—2.1(147,155A) through 657—2.5(155A) within 12 months of the date of transfer. No refund of fees paid to the board will be made for failure to complete all licensure requirements within this one-year period.

**2.8(3) Fees.** In addition to the score transfer fee identified in subrule 2.8(1), fees for licensure pursuant to the NABP score transfer program shall consist of the fees identified in rule 657—2.3(147,155A) excluding the NAPLEX examination registration and administration fees.

**657—2.9(147,155A) Licensure by license transfer/reciprocity.** An applicant for license transfer/reciprocity must be a pharmacist licensed by examination in a state or territory of the United States with which Iowa has a reciprocal agreement, and the license by examination must be in good standing at the time of the application. All candidates shall take and pass the MPJE, Iowa Edition, as provided in subrule 2.1(1). Any candidate who fails to pass the examination shall be eligible for reexamination as provided in rule 657—2.6(147).

**2.9(1) Eligibility.** Each applicant for license transfer to this state who obtains the applicant's original license after January 1, 1980, must have passed the NABP Licensure Examination (NABPLEX), the NAPLEX, or an equivalent examination as determined by NABP.

*a. Preliminary application.* Each applicant for license transfer/reciprocity to Iowa shall complete and submit to NABP, with the appropriate fee as indicated on the application, the NABP Preliminary Application for Transfer of Pharmaceutic Licensure. Refunds of fees paid to NABP shall be at the discretion of NABP.

*b. Foreign pharmacy graduates.* If the applicant is a graduate of a school or college of pharmacy located outside the United States that has not been recognized and approved by the board, proof of qualifications shall include certification from the FPGEC pursuant to subrule 2.10(1).

**2.9(2) Application requirements.** Application to the board shall consist of the final application for license transfer prepared by NABP pursuant to the NABP license transfer program. A foreign pharmacy graduate shall submit certification from the FPGEC as provided in subrule 2.10(1). Applications, together with other required information and fees, shall be submitted as provided in subrule 2.3(3).

**2.9(3) MPJE required.** An applicant shall also be required to submit the registration application for MPJE, Iowa Edition, as provided in rule 657—2.2(155A). The form and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).

**2.9(4) Fees.** The fee for license transfer shall consist of the biennial license fee established by rule 657—2.11(147,155A) including surcharge and a processing fee of \$100. No refunds of the processing fee shall be made for cancellation or withdrawal of an application. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, or certified check.

**2.9(5) Timeliness.** A final application for license transfer is valid for 12 months following the date of issuance by NABP. A candidate for license transfer shall complete, within that one-year period, all licensure requirements established by this rule. No refund of fees will be made for failure to complete all licensure requirements within this one-year period.

**657—2.10(155A) Foreign pharmacy graduates.**

**2.10(1) Education equivalency.** Any applicant who is a graduate of a school or college of pharmacy located outside the United States that has not been recognized and approved by the board shall be deemed to have satisfied the requirements of Iowa Code section 155A.8, subsection 1, by certification by the Foreign Pharmacy Graduate Examination Committee (FPGEC). Each applicant shall have successfully passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) given by the FPGEC established by the NABP. The FPGEE is hereby recognized and approved by the board. Each applicant shall also demonstrate proficiency in written English by passing the Test of English as a Foreign Language (TOEFL) and proficiency in spoken English by passing the Test of Spoken English (TSE) or proficiency in basic English language skills by passing the Internet Based TOEFL (TOEFL iBT). The TOEFL, TOEFL iBT, and TSE are hereby recognized and approved by the board. Certification by the FPGEC shall be evidence of the applicant's successfully passing the FPGEE, TSE, and TOEFL, or the FPGEE and TOEFL iBT, and certification is a prerequisite to taking the licensure examinations required in subrule 2.1(1).

**2.10(2) Internship.** A foreign pharmacy graduate applicant shall also be required to obtain internship experience in one or more board-licensed community or hospital pharmacies as provided in rule 657—4.7(155A). Internship requirements shall, in all other aspects, meet the requirements established in 657—Chapter 4.

**657—2.11(147,155A) License expiration and renewal.** A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, with the exception that a new pharmacist license issued between April 1 and June 29 shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the renewal application and timely payment of a \$200 fee plus applicable surcharge pursuant to 657—30.8(155A).

**2.11(1) *Late payment penalty.*** Failure to renew the license before July 1 following expiration shall require payment of the renewal fee, a penalty fee of \$200, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before August 1 following expiration shall require payment of the renewal fee, a penalty fee of \$300, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before September 1 following expiration shall require payment of the renewal fee, a penalty fee of \$400, and applicable surcharge pursuant to 657—30.8(155A). Failure to renew the license before October 1 following expiration may require an appearance before the board and shall require payment of the renewal fee, a penalty fee of \$500, and applicable surcharge pursuant to 657—30.8(155A). In no event shall the combined fee and penalty fee for late renewal of the license exceed \$700 plus applicable surcharge pursuant to 657—30.8(155A). The provisions of Iowa Code section 147.11 shall apply to a license that is not renewed within five months of the expiration date.

**2.11(2) *Delinquent license.*** If a license is not renewed before its expiration date, the license is delinquent and the licensee may not practice pharmacy in the state of Iowa until the licensee reactivates the delinquent license. Reactivation of a delinquent license shall include submission of a completed application and appropriate fees and may include requirements relating to the reactivation of an inactive license pursuant to subrule 2.13(2). A pharmacist who continues to practice pharmacy in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

**657—2.12(272C) Continuing education requirements.** Pharmacists shall complete continuing education for license renewal pursuant to the requirements of this rule. For purposes of this rule, “continuing education” means a structured educational activity that is applicable to the practice of pharmacy, that promotes problem solving and critical thinking, and that is designed or intended to support the continuing development of pharmacists to maintain and enhance their competence.

**2.12(1) *Continuing education activity attendance.*** Continuing education activities that carry the seal of an Accreditation Council for Pharmacy Education (ACPE)-accredited provider will automatically qualify for continuing education credit. Attendance is mandated in order for a pharmacist to receive credit unless the activity is an ACPE-accredited correspondence course.

*a. Non-ACPE provider activity.* A maximum of 1.3 CEUs (13 contact hours) of the total 3.0 CEUs of continuing education credits required pursuant to subrule 2.12(4) may be obtained through completion of non-ACPE provider activities if such activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist’s professional practice. The pharmacist is responsible for ensuring that the activity content directly relates to the pharmacist’s professional practice. In addition, if one or more non-ACPE provider activities are intended to fulfill the requirement in paragraph 2.12(4) “c,” the pharmacist is responsible for ensuring the activity content relates to patient or medication safety.

*b. Exemption for health-related graduate studies.* A pharmacist who is continuing formal education in health-related graduate programs, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

**2.12(2) *Continuing education unit required.*** The nationally accepted measurement of continuing education is referred to as CEU (continuing education unit), and the board of pharmacy employs that measurement. Ten contact hours of approved continuing education are equivalent to one CEU. The board of pharmacy will require 3.0 CEUs each renewal period. For purposes of this rule, “renewal period” means the 27-month period commencing April 1 prior to the previous license expiration and ending June 30, the date of current license expiration. A pharmacist who fails to complete the required CEUs within the renewal period shall be required to complete one and one-half times the number of delinquent CEUs

prior to reactivation of the license. CEUs that are used to satisfy the continuing education requirement for one renewal period shall not be used to satisfy the requirement for a subsequent renewal period.

**2.12(3) Continuing education activity statement of credit.**

a. An accredited provider will be required to make available to an individual pharmacist a statement of credit that indicates successful completion of and participation in a continuing education activity. The statement of credit will carry the following information:

- (1) Pharmacist's full name.
- (2) Number of contact hours or CEUs awarded for activity completion.
- (3) Date of live activity or date of completion of home study activity.
- (4) Name of accredited provider.
- (5) Activity title and universal activity number.

b. A pharmacist must retain statements of credit in the pharmacist's personal files for four years.

**2.12(4) Continuing education activity topics.** Each pharmacist is required to obtain continuing education by completing activities in the topics specified in this subrule.

a. *Drug therapy.* A minimum of 1.5 CEUs (15 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited activities dealing with drug therapy. Activities qualifying for the drug therapy requirement will include the ACPE topic designator "01" or "02" in the last two digits of the universal activity number.

b. *Pharmacy law.* A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited activities dealing with pharmacy law. Activities qualifying for the pharmacy law requirement will include the ACPE topic designator "03" in the last two digits of the universal activity number.

c. *Patient or medication safety.* A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in activities dealing with patient or medication safety. Activities completed to fulfill this requirement may be ACPE-accredited activities, in which case the last two digits of the universal activity number will include the ACPE topic designator "05," or non-ACPE provider activities as provided in subrule 2.12(1).

**2.12(5) New license holders licensed by examination.** After the initial license is issued by examination, the new license holder is exempt from meeting continuing education requirements for the first license renewal. However, if the licensee qualifies as a mandatory abuse reporter, the licensee shall not be exempt from mandatory training for identifying and reporting abuse pursuant to rule 657—2.16(235B,272C). Regardless of when the license is first issued, the new license holder will be required to obtain, prior to the second renewal, 30 contact hours (3.0 CEUs) of continuing education pursuant to subrules 2.12(1) through 2.12(4).

**2.12(6) New license holders licensed by license transfer/reciprocity.** After the initial license is issued by license transfer, the new license holder will be required to obtain, prior to the first license renewal, 30 contact hours (3.0 CEUs) of continuing education credits pursuant to subrules 2.12(1) through 2.12(4).

**2.12(7) Reporting continuing education credits.**

a. A pharmacist shall submit on or with the renewal application form documentation that the continuing education requirements have been met. Documentation shall be in a format that includes the following:

- (1) The total number of credits accumulated for the renewal period;
- (2) The individual activities completed, including activity title and universal activity number;
- (3) The dates of completion;
- (4) The credits awarded for each activity;
- (5) The name of the provider of each activity; and
- (6) Identification of the activities completed to comply with the drug therapy requirements in subrule 2.12(4).

b. The board may require a pharmacist to submit the activity statements of credit that document successful completion of the activities included with or on the renewal application.

c. Failure to receive the renewal application shall not relieve the pharmacist of the responsibility of meeting continuing education requirements.

**2.12(8) Relicensure examination.** Nothing in these rules precludes the board from requiring an applicant for renewal to submit to a relicensure examination.

**2.12(9) Physical disability or illness.** The board may, in individual cases involving physical disability or illness, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application is made and signed by the licensee and the licensee's physician. The board may grant waivers of the minimum continuing education requirements for physical disability or illness for any period of time not to exceed one renewal period. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the licensee to make up all or any portion of the waived continuing education requirements by any method prescribed by the board.

[ARC 8672B, IAB 4/7/10, effective 5/12/10; ARC 9406B, IAB 3/9/11, effective 4/13/11; ARC 9782B, IAB 10/5/11, effective 11/9/11]

**657—2.13(272C) Active and inactive license status.**

**2.13(1) Active license.** Active license status applies to a pharmacist who has submitted the renewal application and fee and has met Iowa requirements for continuing education. Active license status also applies to a pharmacist who has submitted the renewal application and fee and who is a resident of another state, is licensed to practice pharmacy in that state, and has met the continuing education requirements of that state. A pharmacist who meets the continuing education requirements of another state shall provide documentation on the renewal application of the pharmacist's license status in that state. An Iowa licensee actively practicing in a state that does not require continuing education for license renewal shall be required to meet Iowa continuing education requirements.

**2.13(2) Inactive license.** Failure of a pharmacist to comply with the continuing education requirements during the renewal period will result in the issuance of a renewal card marked "inactive" upon submission of the renewal application and fee. Reactivation of an inactive pharmacist license shall be accomplished by the appropriate method described below. Internship, in each instance where internship is mentioned below, shall be in a pharmacy approved by the board. The pharmacist will be issued an intern registration certificate.

*a.* An inactive pharmacist who wishes to become active and who has been actively practicing pharmacy during the last five years in any state or states which required continuing education during that five-year period shall submit proof of continued licensure in good standing in the state or states of such practice.

*b.* An inactive pharmacist who wishes to become active and who has been actively practicing pharmacy during the last five years in a state which does not require continuing education shall submit proof of continued licensure in good standing in the state or states of such practice. The pharmacist shall also complete one of the following options:

- (1) Take and successfully pass the MPJE, Iowa Edition, as provided in subrule 2.1(1);
- (2) Complete 160 hours of internship for each year the pharmacist was on inactive status (not to exceed 1,000 hours); or
- (3) Obtain one and one-half times the number of continuing education credits required under 2.12(2) for each renewal period the pharmacist was inactive.

*c.* An inactive pharmacist who wishes to become active and who has not been actively practicing pharmacy during the past five years, and whose license has been inactive for not more than five years, shall complete one of the following options:

- (1) Successfully pass all components of the licensure examination as required in rule 657—2.1(147,155A);
- (2) Complete 160 hours of internship for each year the pharmacist was on inactive status; or
- (3) Obtain one and one-half times the number of continuing education credits required under 2.12(2) for each renewal period the pharmacist was inactive.



d. An inactive pharmacist who wishes to become active and who has not been actively practicing pharmacy for more than five years shall petition the board for reactivation of the license to practice pharmacy under one or more of the following options:

(1) Successfully pass all components of the licensure examination as required in rule 657—2.1(147,155A);

(2) Complete 160 hours internship for each year the pharmacist was on inactive status (not to exceed 1,000 hours); or

(3) Obtain one and one-half times the number of continuing education credits required under 2.12(2) for each renewal period the pharmacist was inactive.

**657—2.14(155A) Fees for additional license certificates.** Only original license certificates issued by the board of pharmacy for licensed pharmacists are valid. Additional original license certificates for licensed pharmacists may be obtained from the board of pharmacy for a prepaid fee of \$20 each. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

**657—2.15(155A) Notifications to the board.** A pharmacist shall report to the board within ten days a change of the pharmacist's name, address, or pharmacy employment.

**657—2.16(235B,272C) Mandatory training for identifying and reporting abuse.** "Mandatory training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of a pharmacist who qualifies as a mandatory abuse reporter under Iowa Code section 232.69 or 235B.16. A licensed pharmacist shall be responsible for determining whether or not, by virtue of the pharmacist's practice or employment, the pharmacist qualifies as a mandatory abuse reporter under either or both of these sections.

**2.16(1) Training required.** A licensed pharmacist who qualifies as a mandatory abuse reporter shall have completed approved abuse education training as follows.

a. *Mandatory reporter of child abuse.* A pharmacist who qualifies as a mandatory reporter of child abuse shall have completed two hours of training in child abuse identification and reporting within the previous five years.

b. *Mandatory reporter of dependent adult abuse.* A pharmacist who qualifies as a mandatory reporter of dependent adult abuse shall have completed two hours of training in dependent adult abuse identification and reporting within the previous five years.

c. *Mandatory reporter of child abuse and dependent adult abuse.* A pharmacist who qualifies as a mandatory reporter of child abuse and dependent adult abuse may complete separate courses pursuant to paragraphs "a" and "b" or may complete, within the previous five years, one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse.

**2.16(2) Persons exempt from training requirements.** The requirements of this rule shall not apply to a pharmacist during periods that the pharmacist serves honorably on active duty in the military or during periods that the pharmacist resides outside Iowa and does not practice pharmacy in Iowa.

**2.16(3) Mandatory training records.** A pharmacist subject to the requirements of this rule shall maintain documentation of completion of the mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years following the date of the training. The board may audit this information at any time within the five-year period.

**2.16(4) Approved programs.** "Approved abuse education training" means a training program using a curriculum approved by the abuse education review panel of the Iowa department of public health.

These rules are intended to implement Iowa Code sections 147.10, 147.36, 147.94, 147.96, 155A.8, 155A.9, 155A.11, 155A.39, and 272C.2.

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## CHAPTER 3 PHARMACY TECHNICIANS

[Prior to 9/4/02, see 657—Ch 22]

**657—3.1(155A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

“*Board*” means the Iowa board of pharmacy.

“*Cashier*” means a person whose duties within the pharmacy are limited to accessing finished, packaged prescription orders and processing payments for and delivering such orders to the patient or the patient’s representative.

“*Certified pharmacy technician*” or “*certified technician*” means an individual who holds a valid current national certification and who has registered with the board as a certified pharmacy technician. The term includes an individual registered with the board who voluntarily acquired certification as provided in subrule 3.5(2).

“*Delivery*” means the transport and conveyance of a finished, securely packaged prescription order to the patient or the patient’s caregiver.

“*Nationally accredited program*” means a program and examination for the certification of pharmacy technicians that is accredited by the NCCA.

“*NCCA*” means the National Commission for Certifying Agencies.

“*Pharmacy support person*” means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by the pharmacist under the pharmacist’s responsibility and supervision pursuant to 657—Chapter 5.

“*Pharmacy technician*” or “*technician*” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in rules 657—3.22(155A) through 657—3.24(155A), and includes a certified pharmacy technician, a pharmacy technician trainee, and an uncertified pharmacy technician.

“*Pharmacy technician certification*” or “*national certification*” means a certificate issued by a national pharmacy technician certification authority accredited by the NCCA attesting that the technician has successfully completed the requirements of the certification program. The term includes evidence of renewal of the national certification.

“*Pharmacy technician trainee*” or “*technician trainee*” means an individual who is in training to become a pharmacy technician and who is in the process of acquiring national certification as a pharmacy technician as provided in rule 657—3.5(155A).

“*Pharmacy technician training*” or “*technician training*” means education or experience acquired for the purpose of qualifying for and preparing for national certification.

“*Supervising pharmacist*” means an Iowa-licensed pharmacist who is on duty in an Iowa-licensed pharmacy and who is responsible for the actions of a pharmacy technician or other supportive personnel.

“*Uncertified pharmacy technician*” or “*uncertified technician*” means a pharmacy technician who has not attained national certification and who qualifies for the time extension to attain national certification as provided in rule 657—3.6(155A).

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.2(155A) Purpose of registration.** A registration program for pharmacy technicians is established for the purposes of determining the competency of a pharmacy technician or of an applicant for registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician and for the purposes of identification, tracking, and disciplinary action for violations of federal or state pharmacy or drug laws or regulations.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.3(155A) Registration required.** Any person employed in Iowa as a pharmacy technician, except a pharmacist-intern whose pharmacist-intern registration is in good standing with the board, shall obtain and maintain during such employment a current registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician pursuant to these rules. An individual accepting employment as a pharmacy technician in Iowa who fails to register as a certified pharmacy

technician, technician trainee, or uncertified technician as provided by these rules may be subject to disciplinary sanctions. A certified pharmacy technician accepting employment as a certified pharmacy technician in Iowa who fails to register as a certified pharmacy technician or who fails to maintain national certification may be subject to disciplinary sanctions.

**3.3(1) *Licensed health care provider.*** Except as provided in this rule, a licensed health care provider whose registration or license is in good standing with and not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing board and who assists in the technical functions of the practice of pharmacy shall be required to register as a certified pharmacy technician, technician trainee, or uncertified technician pursuant to these rules.

**3.3(2) *Original application required.*** Any person not currently registered with the board as a pharmacy technician shall complete the appropriate application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 30-day period.

**3.3(3) *Technician training.*** A person who is enrolled in a college-based or American Society of Health-System Pharmacists (ASHP)-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration within 30 days of the commencement of pharmacy technician training.

**3.3(4) *Registration number.*** Each pharmacy technician registered with the board will be assigned a unique registration number.

[ARC 9009B, IAB 8/11/10, effective 7/23/10; ARC 9407B, IAB 3/9/11, effective 4/13/11]

#### **657—3.4** Reserved.

**657—3.5(155A) Certification of pharmacy technicians.** Except as provided in rule 657—3.6(155A) or subrule 3.5(3), effective July 1, 2010, all pharmacy technicians shall be required to be nationally certified as provided by this rule. National certification does not replace the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules. A certified pharmacy technician shall maintain the technician's national certification, in addition to the technician's Iowa registration, during any period of employment in an Iowa pharmacy as a certified pharmacy technician.

**3.5(1) *Certification prior to July 1, 2010.*** An individual who holds a valid current national certification from the Institute for the Certification of Pharmacy Technicians (ICPT) or the Pharmacy Technician Certification Board (PTCB) and who acquired such certification prior to July 1, 2010, shall be deemed to have met the requirement for national certification beginning July 1, 2010, provided the certification is maintained in current standing.

**3.5(2) *Required certification effective July 1, 2010.*** Beginning July 1, 2010, national certification acquired through successful completion of any NCCA-accredited pharmacy technician certification program and examination fulfills the requirement for national certification.

**3.5(3) *Pharmacy technician trainee.*** Except as provided in rule 657—3.6(155A), effective July 1, 2009, a person who is in the process of acquiring national certification as a pharmacy technician shall register with the board as a pharmacy technician trainee. The registration shall be issued for a period of one year and shall not be renewed.

**3.5(4) *Certified pharmacy technician.*** Beginning July 1, 2010, all applicants for a new pharmacy technician registration except as provided by subrule 3.5(3), and all applicants for renewal of a pharmacy technician registration except as provided in rule 657—3.6(155A), shall provide proof of current national pharmacy technician certification and shall complete the application for certified pharmacy technician registration.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9009B, IAB 8/11/10, effective 7/23/10; ARC 9407B, IAB 3/9/11, effective 4/13/11]

**657—3.6(155A) Extension of deadline for national certification.** A pharmacy technician who meets all of the criteria identified in this rule shall not be required to acquire national certification prior to

December 31, 2013. The pharmacy technician shall register with the board as an uncertified pharmacy technician and shall maintain that registration during all periods of employment as a pharmacy technician. To qualify for this extension, the uncertified pharmacy technician shall meet all of the following criteria:

**3.6(1) *Prior registration.*** The pharmacy technician shall have registered as a pharmacy technician prior to January 1, 2010;

**3.6(2) *Minimum prior employment.*** The pharmacy technician shall have worked as a pharmacy technician for at least 2,000 hours in the 18-month period immediately before submission of the application for renewal of the pharmacy technician's registration as evidenced by one or more affidavits as provided in paragraph 3.8(5) "d"; and

**3.6(3) *Minimum continued employment.*** The pharmacy technician shall continue to work as a pharmacy technician for at least 2,000 hours during any 18-month period between January 1, 2010, and December 31, 2013, or until the pharmacy technician attains national certification.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.7** Reserved.

**657—3.8(155A) Application form.**

**3.8(1) *Required information.*** The application for a certified pharmacy technician registration, pharmacy technician trainee registration, or uncertified pharmacy technician registration shall include the following:

- a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
- b. Educational background;
- c. Work experience;
- d. Current place or places of employment;
- e. Any other information deemed necessary by the board and as provided by this rule.

**3.8(2) *Declaration of current impairment or limitations.*** The applicant shall declare any current use of drugs, alcohol, or other chemical substances that in any way impairs or limits the applicant's ability to perform the duties of a pharmacy technician with reasonable skill and safety.

**3.8(3) *History of felony or misdemeanor crimes.*** The applicant shall declare any history of being charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100).

**3.8(4) *History of disciplinary actions.*** The applicant shall declare any history of disciplinary actions or practice restrictions imposed by a state health care professional or technician licensure or registration authority.

**3.8(5) *Additional information.*** The following additional information shall be required from an applicant for the specified registration.

a. *Technician trainee.* The applicant for technician trainee registration shall identify the source of technician training, the anticipated date of completion of training, and the anticipated date of national certification.

b. *Certified pharmacy technician.* The applicant for certified technician registration shall provide proof of current pharmacy technician certification. The applicant shall also identify all current pharmacy employers including pharmacy name, license number, address, and average hours worked per week.

c. *Licensed health care provider.* In addition to the additional information required by paragraph "a," "b" or "d" as applicable, a licensed health care provider shall provide evidence that the licensee's professional license or registration is current and in good standing and is not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing authority.

d. *Uncertified pharmacy technician.* The applicant for uncertified pharmacy technician registration shall submit with the application for registration renewal one or more affidavits signed by the pharmacists in charge of one or more Iowa pharmacies where the applicant practiced as a pharmacy

technician during the 18 months prior to submission of the application for registration. Affidavits shall be on a form provided by the board office.

**3.8(6) *Sworn signature.*** The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate fees pursuant to rule 657—3.10(155A).  
[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.9(155A) Registration term and renewal.** A pharmacy technician registration shall expire as provided in this rule for the specified registration. The board shall not require continuing education for renewal of a pharmacy technician registration.

**3.9(1) *Certified pharmacy technician registration.*** A certified pharmacy technician registration shall expire on the second last day of the birth month following initial registration, with the exception that a new certified pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration.

**3.9(2) *Pharmacy technician trainee registration.*** Beginning July 1, 2009, a registration for a pharmacy technician who is in the process of acquiring national certification (technician trainee) shall expire on the last day of the registration month 12 months following the date of registration or 12 months following the date registration was required pursuant to subrule 3.3(3).

*a. National certification completed.* When the registered technician trainee completes national certification, and no later than the date of expiration of the technician trainee registration, the pharmacy technician trainee shall complete and submit an application for certified pharmacy technician registration. A successful application shall result in issuance of a new certified pharmacy technician registration as provided in subrule 3.9(1).

*b. Voluntary cancellation of registration.* A registered technician trainee who fails to complete national certification prior to expiration of the technician trainee registration shall notify the board that the pharmacy technician trainee registration should be canceled and that the individual has ceased practice as a pharmacy technician.

*c. Failure to notify the board.* If a pharmacy technician trainee fails to notify the board prior to the expiration date of the technician trainee registration regarding the individual's intentions as provided in paragraph "a" or "b," the technician trainee registration shall be canceled and the individual shall cease practice as a pharmacy technician.

**3.9(3) *Uncertified pharmacy technician registration.*** Beginning June 1, 2010, a registration for a pharmacy technician who qualifies for the time extension for certification as provided by rule 657—3.6(155A) shall expire the second last day of the birth month following the latest scheduled registration renewal. In no case shall a registration for an uncertified pharmacy technician expire later than December 31, 2013, unless the pharmacy technician attains national certification as provided in subrule 3.5(2) and is reclassified as a certified pharmacy technician.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.10(155A) Registration fee.** The following fees for initial registration and registration renewal shall apply to the specified registration applications filed within the following time frames. The appropriate fee shall be submitted with the registration application in the form of a personal check, certified check or cashier's check, or a money order payable to the Iowa Board of Pharmacy.

**3.10(1) *Certified or uncertified pharmacy technician registration.*** The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration or an uncertified pharmacy technician registration shall be \$50 plus applicable surcharge pursuant to rule 657—30.8(155A).

**3.10(2) *Technician trainee registration.*** The fee for a one-year pharmacy technician trainee registration shall be \$20 plus applicable surcharge pursuant to rule 657—30.8(155A).

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.11(155A) Late applications and fees.**

**3.11(1) *Initial registration.*** An application for initial registration that is not received within the applicable period specified in subrule 3.3(2) or 3.3(3) shall be delinquent, and the applicant shall be

assessed a late payment fee. The late payment fee shall be equal to the amount of the fee for initial registration. A delinquent initial registration shall include payment of the initial registration fee, applicable surcharge pursuant to rule 657—30.8(155A), and late payment fee.

**3.11(2) *Registration renewal.*** A technician registration that is not renewed before its expiration date shall be delinquent, and the registrant shall not continue employment as a pharmacy technician until the registration is reactivated. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

*a.* A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, plus the applicable surcharge pursuant to rule 657—30.8(155A).

*b.* A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the second month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, the applicable surcharge pursuant to rule 657—30.8(155A), plus an additional penalty fee of \$10 for each additional month, not to exceed three additional months, that the registration is delinquent. The maximum combined fee payment for reactivation of a delinquent registration shall not exceed an amount equal to twice the renewal fee plus \$30 plus the applicable surcharge pursuant to rule 657—30.8(155A).

**657—3.12(155A) Registration certificates.** The certificate of technician registration issued by the board to a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician is the property of and shall be maintained by the registered technician. The certificate or a copy of the certificate shall be maintained in each pharmacy where the pharmacy technician works. Each pharmacy utilizing pharmacy technicians shall be responsible for verifying that all pharmacy technicians working in the pharmacy are registered, that technician registrations remain current and active, and that a certified pharmacy technician's national certification remains current and active.

[ARC 9009B, IAB 8/11/10, effective 7/23/10; ARC 9407B, IAB 3/9/11, effective 4/13/11]

**657—3.13(155A) Notifications to the board.** A pharmacy technician shall report to the board within ten days a change of the technician's name, address, or pharmacy employment status.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.14 to 3.16** Reserved.

**657—3.17(155A) Training and utilization of pharmacy technicians.** All Iowa-licensed pharmacies utilizing pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy. Pharmacy policies shall specify the frequency of review. Technician training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of technician training shall be available for inspection and copying by the board or an agent of the board.

**657—3.18(147,155A) Identification of pharmacy technician.**

**3.18(1) *Identification badge.*** A pharmacy technician shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacy technician and that includes at least the technician's first name.

**3.18(2) *Misrepresentation prohibited.*** A pharmacy technician shall not represent himself or herself in any manner as a pharmacist or pharmacist-intern. A pharmacy technician shall not represent himself or herself in any manner as a certified pharmacy technician unless the technician has attained national pharmacy technician certification.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.19** Reserved.

**657—3.20(155A) Responsibility of supervising pharmacist.** The ultimate responsibility for the actions of a pharmacy technician shall remain with the supervising pharmacist.  
[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.21(155A) Delegation of functions.**

**3.21(1) Technical dispensing functions.** A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9. Except as provided for an approved tech-check-tech program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

**3.21(2) Nontechnical functions.** A pharmacist may delegate nontechnical functions to a pharmacy technician or a pharmacy support person only if the pharmacist is present to supervise the pharmacy technician or pharmacy support person when delegated nontechnical functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9783B, IAB 10/5/11, effective 11/9/11]

**657—3.22(155A) Technical functions.** At the discretion of the supervising pharmacist, the following technical functions, in addition to any of the functions authorized for a pharmacy support person pursuant to 657—Chapter 5, may be delegated to a pharmacy technician as specified in the following subrules.

**3.22(1) Certified pharmacy technician.** Under the supervision of a pharmacist, a certified pharmacy technician may perform technical functions delegated by the supervising pharmacist including, but not limited to, the following:

- a. Perform packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.
- b. Accept prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's office.
- c. Contact prescribers to obtain prescription refill authorizations.
- d. Process pertinent patient information, including information regarding allergies and disease state.
- e. Enter prescription and patient information into the pharmacy computer system.
- f. Inspect drug supplies provided and controlled by an Iowa-licensed pharmacy but located or maintained outside the pharmacy department, including but not limited to drug supplies maintained in an ambulance or other emergency medical service vehicle, a long-term care facility, a hospital patient care unit, or a hospice facility.
- g. Affix required prescription labels upon any container of drugs sold or dispensed pursuant to the prescription of an authorized prescriber.
- h. Prepackage or label multidose and single-dose packages of drugs, including dose picks for unit dose cart or AMDS fills for hospital or long-term care facility patients.
- i. Perform drug compounding processes for nonsterile compounding as provided in 657—Chapter 20.
- j. Perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.
- k. As provided in rule 657—3.24(155A), accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent.

**3.22(2) Pharmacy technician trainee and uncertified pharmacy technician.** Under the supervision of a pharmacist, a pharmacy technician trainee or an uncertified pharmacy technician may perform only the following technical functions delegated by the supervising pharmacist:



- a. Perform packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.
  - b. Accept prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's office.
  - c. Contact prescribers to obtain prescription refill authorizations.
  - d. Process pertinent patient information, including information regarding allergies and disease state.
  - e. Enter prescription and patient information into the pharmacy computer system.
  - f. Affix required prescription labels upon any container of drugs sold or dispensed pursuant to the prescription of an authorized prescriber.
  - g. Prepackage or label multidose and single-dose packages of drugs, including dose picks for unit dose cart or AMDS fills for hospital or long-term care facility patients.
  - h. Under the supervision of a pharmacist who provides training and evaluates and monitors trainee competence in the compounding processes, perform drug compounding processes for nonsterile compounding as provided in 657—Chapter 20.
  - i. Under the supervision of a pharmacist who provides training and evaluates and monitors trainees, and contingent on successful completion of appropriate media fill testing processes, perform drug compounding processes for sterile compounding as provided in 657—Chapter 13.
- [ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9009B, IAB 8/11/10, effective 7/23/10; ARC 9502B, IAB 5/18/11, effective 6/22/11]

**657—3.23(155A) Tasks a pharmacy technician shall not perform.** A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Except for a certified pharmacy technician participating in an approved tech-check-tech program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;
2. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A);
3. Provide patient counseling, consultation, or patient-specific drug information, tender an offer of patient counseling on behalf of a pharmacist, or accept a refusal of patient counseling from a patient or patient's agent;
4. Make decisions that require a pharmacist's professional judgment, such as interpreting prescription drug orders or applying information;
5. Transfer a prescription drug order to another pharmacy or receive the transfer of a prescription drug order from another pharmacy;
6. Delegate technical functions to a pharmacy support person.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9009B, IAB 8/11/10, effective 7/23/10; ARC 9783B, IAB 10/5/11, effective 11/9/11]

**657—3.24(155A) New prescription drug orders or medication orders.** At the discretion of the supervising pharmacist, a certified pharmacy technician may be allowed to accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent if the certified pharmacy technician has received appropriate training pursuant to the pharmacy's policies and procedures. The supervising pharmacist shall remain responsible for ensuring the accuracy, validity, and completeness of the information received by the certified pharmacy technician. The pharmacist shall contact the prescriber to resolve any questions, inconsistencies, or other issues relating to the information received by the certified pharmacy technician that involve a pharmacist's professional judgment.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.25(155A) Delegation of nontechnical functions.** Rescinded IAB 4/7/10, effective 6/1/10.

**657—3.26 and 3.27** Reserved.

**657—3.28(147,155A) Unethical conduct or practice.** Violation by a pharmacy technician of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule 657—3.30(155A).

**3.28(1) *Misrepresentative deeds.*** A pharmacy technician shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

**3.28(2) *Confidentiality.*** In the absence of express written authorization from the patient or written order or direction of a court, except where the best interests of the patient require, a pharmacy technician shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, a licensed pharmacist, a person duly authorized by law to receive such information, or as otherwise provided in rule 657—8.16(124,155A), any of the following:

- a. A patient's name, address, social security number, or any information that could be used to identify a patient;
- b. The contents of any prescription drug order or medication order or the therapeutic effect thereof, or the nature of professional pharmaceutical services rendered to a patient;
- c. The nature, extent, or degree of illness suffered by any patient; or
- d. Any medical information furnished by the prescriber or the patient.

**3.28(3) *Discrimination.*** It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

**3.28(4) *Unethical conduct or behavior.*** A pharmacy technician shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior shall include, but is not limited to, the following acts: verbal or physical abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.29(155A) Denial of registration.** The executive director or designee may deny an application for registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—3.30(155A) Discipline of pharmacy technicians.**

**3.30(1) *Violations.*** The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

**3.30(2) *Sanctions.*** The board may impose the following disciplinary sanctions:

- a. Revocation of a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician registration.
- b. Suspension of a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician registration until further order of the board or for a specified period.
- c. Nonrenewal of a certified pharmacy technician or uncertified pharmacy technician registration.
- d. Prohibition, permanently, until further order of the board, or for a specified period, from engaging in specified procedures, methods, or acts.
- e. Probation.
- f. The ordering of a physical or mental examination.

- g. The imposition of civil penalties not to exceed \$25,000.
- h. Issuance of a citation and warning.
- i. Such other sanctions allowed by law as may be appropriate.

[ARC 9009B, IAB 8/11/10, effective 7/23/10]

These rules are intended to implement Iowa Code sections 147.72, 155A.23, 155A.33, and 155A.39 and Iowa Code section 155A.6A as amended by 2010 Iowa Acts, House File 2531, section 112.

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<sup>1</sup> April 30, 2008, effective date delayed 70 days by the Administrative Rules Review Committee at its meeting held April 4, 2008.



## CHAPTER 4 PHARMACIST-INTERNS

[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 3]

### **657—4.1(155A) Definitions.**

“*Board*” means the Iowa board of pharmacy examiners.

“*Internship booklet*” means a set of documents and forms to be completed by one or more pharmacist preceptors during the course of an individual pharmacist-intern’s internship training. The booklet includes the intern’s registration certificate, instructions for the intern and the preceptor, the competencies to be attained by the intern and certified by each preceptor, and one or more affidavits on which each preceptor shall certify the hours of nonconcurrent internship completed under that preceptor’s supervision.

“*Nontraditional internship booklet*” means that internship booklet comprised of competencies and affidavits relating exclusively to that nontraditional internship segment and approved by the board for the individual pharmacist-intern pursuant to subrule 4.6(6).

“*Pharmacist-intern*” or “*intern*” means a person enrolled in a college of pharmacy or actively pursuing a pharmacy degree, or as otherwise provided by the board, who is registered with the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor pursuant to Iowa Code section 155A.6. “Pharmacist-intern” includes a graduate of an approved college of pharmacy, or a foreign graduate who has established educational equivalency pursuant to the requirements of rule 657—4.7(155A), who is registered with the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist in Iowa. “Pharmacist-intern” may include an individual participating in a residency or fellowship program in Iowa, whether or not the individual is licensed as a pharmacist in another state.

“*Pharmacist preceptor*” or “*preceptor*” means a pharmacist licensed to practice pharmacy whose license is current and in good standing. Preceptors shall meet the conditions and requirements of rule 657—4.9(155A). No pharmacist shall serve as a preceptor while the pharmacist’s license to practice pharmacy is the subject of disciplinary sanction by a pharmacist licensing authority.

[ARC 9784B, IAB 10/5/11, effective 11/9/11]

### **657—4.2(155A) Goal and objectives of internship.**

**4.2(1) Goal.** The goal of internship is for the pharmacist-intern, over a period of time, to attain and build upon the knowledge, skills, responsibilities, and ability to safely, efficiently, and effectively practice pharmacy under the laws and rules of the state of Iowa.

**4.2(2) Objectives.** The objectives of internship are as follows:

*a. Managing drug therapy to optimize patient outcomes.* The pharmacist-intern shall evaluate the patient and patient information to determine the presence of a disease or medical condition, to determine the need for treatment or referral, and to identify patient-specific factors that affect health, pharmacotherapy, or disease management; ensure the appropriateness of the patient’s specific pharmacotherapeutic agents, dosing regimens, dosage forms, routes of administration, and delivery systems; and monitor the patient and patient information and manage the drug regimen to promote health and ensure safe and effective pharmacotherapy.

*b. Ensuring the safe and accurate preparation and dispensing of medications.* The pharmacist-intern shall perform calculations required to compound, dispense, and administer medication; select and dispense medications; and prepare and compound extemporaneous preparations and sterile products.

*c. Providing drug information and promoting public health.* The pharmacist-intern shall access, evaluate, and apply information to promote optimal health care; educate patients and health care professionals regarding prescription medications, nonprescription medications, and medical devices; and educate patients and the public regarding wellness, disease states, and medical conditions.

*d. Adhering to professional and ethical standards.* The pharmacist-intern shall comply with professional, legal, moral, and ethical standards relating to the practice of pharmacy and the operation of the pharmacy.

*e. Understanding the management of pharmacy operations.* The pharmacist-intern shall develop a general understanding of the business procedures of a pharmacy and develop knowledge concerning the employment and supervision of pharmacy employees.

**657—4.3(155A) 1500-hour requirements.** Internship credit may be obtained only after internship registration with the board and successful completion of one semester in a college of pharmacy. Internship shall consist of a minimum of 1500 hours, 1250 hours of which may be a college-based clinical program approved or accepted by the board. Programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. The remaining 250 hours shall be acquired under the supervision of one or more preceptors in a traditional licensed general or hospital pharmacy, at a rate of no more than 48 hours per week, where the goal and objectives of internship in rule 657—4.2(155A) apply. Credit toward the 250 hours will be allowed, at a rate not to exceed 10 hours per week, for an internship served concurrent with academic training. “Concurrent time” means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry level degree in pharmacy. Recognized academic holiday periods, such as spring break and Christmas break, shall not be considered “concurrent time.” The competencies in subrule 4.2(2) shall not apply to college-based clinical programs.

**657—4.4(155A) Iowa colleges of pharmacy clinical internship programs.** The board shall periodically review the clinical component of internship programs of the colleges of pharmacy located in Iowa. The board reserves the right to set conditions relating to the approval of such programs.

**657—4.5(155A) Out-of-state internship programs.** Candidates enrolled in out-of-state colleges of pharmacy who complete the internship requirements of that state shall be deemed to have satisfied Iowa’s internship requirements. Candidates shall submit documentation from the out-of-state internship program certifying completion of that state’s requirements. Candidates enrolled in colleges of pharmacy located in states with no formal internship training program shall submit documentation from that state’s board of pharmacy or college of pharmacy certifying that the candidate has completed all prelicensure training requirements.

**657—4.6(155A) Registration, reporting, and authorized functions.** Every person shall register with the board before beginning the person’s internship experience, whether or not for the purpose of fulfilling the requirements of rule 657—4.3(155A). Registration is required of all students enrolled in Iowa colleges of pharmacy after they have successfully completed one semester in the college of pharmacy. Colleges of pharmacy located in Iowa shall, at least annually, certify to the board the names of students who have successfully completed one semester in the college of pharmacy or who have withdrawn from the college of pharmacy.

**4.6(1) Application for registration—required information.** Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number; and name and location of college of pharmacy and anticipated month and year of graduation. The college of pharmacy shall certify the applicant’s eligibility to practice as a pharmacist-intern.

**4.6(2) Supervision and authorized functions.** A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. The following judgmental functions, usually restricted to a pharmacist, may be delegated to pharmacist-interns registered by the board:

- a.* Verification of the accuracy, validity, and appropriateness of the filled prescription or medication order;
- b.* Review and assessment of patient records for purposes identified in rule 657—8.21(155A);
- c.* Patient counseling.

**4.6(3) *Term of registration.*** Registration shall remain in effect as long as the board is satisfied that the intern is pursuing a degree in pharmacy in good faith and with reasonable diligence. A pharmacist-intern may request that the intern's registration be extended beyond the automatic termination of the registration pursuant to the procedures and requirements of 657—Chapter 34. Except as provided by the definition of pharmacist-intern in rule 657—4.1(155A), registration shall automatically terminate upon the earliest of any of the following:

- a. Licensure to practice pharmacy in any state;
- b. Lapse, exceeding one year, in the pursuit of a degree in pharmacy; or
- c. One year following graduation from the college of pharmacy.

**4.6(4) *Identification, reports, and notifications.*** Credit for internship time will not be granted unless registration and other required records and affidavits are completed.

a. The pharmacist-intern shall be so designated in all relationships with the public and health professionals. While on duty in the pharmacy, the intern shall wear visible to the public a name badge including the designation "pharmacist-intern" or "pharmacy student."

b. Registered interns shall notify the board office within ten days of a change of name or address.

c. Notarized affidavits of experience in non-college-sponsored programs shall be filed with the board office after the successful completion of the appropriate internship booklet and completion of all required internships. These affidavits shall include certification of competencies and shall certify only the number of hours and dates of training as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience or to submit certification of competencies.

**4.6(5) *No credit prior to registration.*** Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs (1250 hours) will not be granted unless registration is issued before the student begins the program.

**4.6(6) *Nontraditional internship.*** Internship training at any site which is not licensed as a general or hospital pharmacy is considered nontraditional internship.

a. *Application.* Prior to beginning a period of nontraditional internship, the intern shall submit a written application, on forms provided by the board, for approval of the objectives of the nontraditional internship. The application shall identify objectives consistent with the unique learning experiences of the intern and consistent with the goal and objectives of internship in rule 657—4.2(155A).

b. *Preceptor.* A preceptor supervising a pharmacist-intern in a nontraditional internship shall be a currently licensed pharmacist in the state where the internship is served, and the requirements of rule 657—4.9(155A) shall apply to all preceptors.

c. *Certification, not credit.* Hours obtained in nontraditional internship shall not be credited toward the total 1500 hours required pursuant to rule 657—4.3(155A) prior to licensure to practice pharmacy in Iowa. The board may, however, certify hours obtained in one or more approved nontraditional internships in recognition of the pharmacist-intern's training outside the scope of traditional pharmacy practice. Certification shall not be granted for experience obtained in a nontraditional internship unless the board, prior to the intern's beginning the period of internship, approved the objectives of the internship.

[ARC 9784B, IAB 10/5/11, effective 11/9/11]

**657—4.7(155A) Foreign pharmacy graduates.** Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy or other board-approved location. These candidates shall register with the board as provided in rule 657—4.6(155A). Internship credit will not be granted until the candidate has been issued an intern registration. Applications for registration shall be accompanied by certification from the Foreign Pharmacy Graduate Examination Committee (FPGEC) as provided in 657—subrule 2.10(1). The board may grant credit to a foreign pharmacy graduate, based on the candidate's experience in the practice of pharmacy, for all or any portion of the required 1500 hours of internship training. The candidate shall provide detailed information regarding the candidate's experience in the practice of pharmacy. The

board shall determine, on a case-by-case basis, whether and to what extent the candidate's experience meets the goals and objectives established in rule 657—4.2(155A).

**657—4.8(155A) Fees.** The fee for registration as a pharmacist-intern is \$30, plus applicable surcharge pursuant to 657—30.8(155A), which shall be payable with the application.

**657—4.9(155A) Preceptor requirements.**

**4.9(1) *Licensed pharmacist.*** A preceptor shall be a licensed pharmacist in good standing in the state where the internship is to be served pursuant to the definition of pharmacist preceptor in rule 657—4.1(155A).

**4.9(2) *Competencies and affidavits.*** A preceptor shall be responsible for initialing and dating those competencies the intern attained under the supervision of the preceptor and for completing the affidavit certifying the number of hours and the dates of each internship training period under the supervision of the preceptor.

**4.9(3) *Number of interns.*** A preceptor may supervise no more than two pharmacist-interns concurrently.

**4.9(4) *Responsibility.*** A preceptor shall be responsible for all functions performed by a pharmacist-intern.

**657—4.10(155A) Denial of pharmacist-intern registration.** The board may deny an application for registration as a pharmacist-intern for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A or 205, or any rule of the board.

**657—4.11(155A) Discipline of pharmacist-interns.**

**4.11(1) *Grounds for discipline.*** The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205, or any rule of the board.

**4.11(2) *Sanctions.*** The board may impose the following disciplinary sanctions:

- a. Revocation of a pharmacist-intern registration.
- b. Suspension of a pharmacist-intern registration until further order of the board or for a specified period.
- c. Prohibit permanently, until further order of the board, or for a specified period, the engaging in specified procedures, methods, or acts.
- d. Such other sanctions allowed by law as may be appropriate.

These rules are intended to implement Iowa Code section 155A.6.

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## CHAPTER 5 PHARMACY SUPPORT PERSONS

**657—5.1(155A) Definitions.** For purposes of this chapter, the following definitions shall apply:

“*Board*” means the Iowa board of pharmacy.

“*Delivery*” means the transport and conveyance of a finished, securely packaged prescription order to the patient or the patient’s agent.

“*Direct access*” means physical access, without direct supervision by a pharmacist, to opened, unpackaged, or unsecured stock containers or prescription vials containing prescription drugs.

“*Pharmacy clerk*” means a person whose duties within the pharmacy department include accessing filled prescription orders and processing payments for and delivering such orders to the patient or the patient’s agent under the supervision of a pharmacist.

“*Pharmacy support person*” means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by a supervising pharmacist under the pharmacist’s responsibility and supervision.

“*Pharmacy technician*” or “*technician*” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, and who is registered pursuant to 657—Chapter 3, and includes a certified pharmacy technician, a pharmacy technician trainee, and an uncertified pharmacy technician.

“*Secure package*” means the prescription order is enclosed in tamper-evident packaging. An IV bag is considered tamper-evident packaging.

“*Supervising pharmacist*” means an Iowa-licensed pharmacist who is on duty in an Iowa-licensed pharmacy and who is responsible for assigning and supervising the duties performed by a pharmacy support person.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9009B, IAB 8/11/10, effective 7/23/10]

**657—5.2(155A) Purpose of registration.** A registration program for pharmacy support persons is established for the purposes of identification, tracking, and disciplinary action. The registration shall not include any determination of the competency of the registered individual. The use of pharmacy support persons to assist the pharmacist with nontechnical duties associated with the practice of pharmacy enables the pharmacist to provide pharmaceutical care to the patient.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.3** Reserved.

**657—5.4(155A) Registration required.**

**5.4(1) Effective date.** Beginning June 1, 2010, a pharmacy support person shall register with the board pursuant to the requirements of this chapter.

**5.4(2) Registration number.** Each pharmacy support person registered with the board will be assigned a unique registration number.

**5.4(3) Original application required.** Any person required to register and not previously registered with the board as a pharmacy support person shall complete an application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy support person. Such application shall be received in the board office before the expiration of this 30-day period.

**5.4(4) Employment terminated.** A registered pharmacy support person who discontinues employment as a pharmacy support person shall not be required to maintain a registration and shall request cancellation of the registration as provided in rule 657—5.14(155A).

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.5(155A) Exempt from registration.** Unless a person has direct access to prescription drugs, the following shall be exempt from registration as a pharmacy support person:

1. Delivery person.
2. Billing clerk, including a person who processes claims for third-party payments.

3. Data processing support, maintenance, or programming personnel.
  4. Facility maintenance personnel including but not necessarily limited to cleaning, sanitation, structural, and mechanical maintenance personnel. Facility maintenance personnel deemed exempt from registration shall be directly supervised by a pharmacist or a certified pharmacy technician who is responsible for the maintenance person's activities within the pharmacy department to ensure medication security and patient privacy.
  5. Any person not directly employed by or under contract to the pharmacy, and not under the direct supervision of a pharmacist, who provides data processing, billing, maintenance, or administrative support functions outside the pharmacy department.
  6. A registered pharmacist-intern or a registered pharmacy technician.
- [ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.6** Reserved.

**657—5.7(155A) Registration application form.**

**5.7(1) Required information.** The application form for a pharmacy support person registration shall require the following:

- a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
- b. Educational background;
- c. Work experience;
- d. Current place or places of employment;
- e. Any other information deemed necessary by the board.

**5.7(2) Declaration of current impairment or limitations.** The applicant shall declare any current use of drugs, alcohol, or other chemical substances that in any way impairs or limits the applicant's ability to perform the duties of a pharmacy support person with reasonable skill and safety.

**5.7(3) History of felony or misdemeanor crimes.** The applicant shall declare any history of being charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100).

**5.7(4) History of disciplinary actions.** The applicant shall declare any history of disciplinary actions or practice restrictions imposed by a state health care professional, licensure, or registration authority.

**5.7(5) Sworn signature.** The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate fees pursuant to rules 657—5.9(155A) and 657—5.11(155A).

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.8** Reserved.

**657—5.9(155A) Registration fee.**

**5.9(1) Initial fee.** The fee for obtaining an initial registration shall be \$30.

**5.9(2) Renewal fee.** The renewal fee for obtaining a biennial registration shall be \$30.

**5.9(3) Timeliness.** Fees shall be paid at the time the new application or the renewal application is submitted for filing.

**5.9(4) Form of payment.** Fee payment shall be in the form of a personal check, certified or cashier's check, or money order payable to Iowa Board of Pharmacy.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.10(155A) Registration renewal.** A pharmacy support person registration shall expire on the second last day of the birth month following initial registration. Registration shall not require continuing education for renewal.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.11(155A) Late application.**

**5.11(1) Fee.** A person required to register or to renew the person's registration who files a late application shall pay an additional \$30 late payment fee.

**5.11(2) Timeliness of initial application.** An application for initial registration shall be assessed a late payment fee if not received within the applicable period specified in rule 657—5.4(155A).

**5.11(3) Timeliness of renewal application.** An application for registration renewal shall be assessed a late payment fee if not received by the expiration date of the registration. A late payment fee shall not be assessed on an expired registration if the person was not employed as a pharmacy support person during the period following expiration of the registration.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.12 Reserved.**

**657—5.13(155A) Registration certificates.** The original registration certificate issued by the board to a pharmacy support person shall be maintained by the pharmacy support person. Verification of current registration shall be maintained in each pharmacy where the pharmacy support person is employed in that capacity and shall be available for inspection by the board.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.14(155A) Notifications to the board.** A pharmacy support person shall report to the board within ten days a change of name, address, place of employment, or employment status.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.15(155A) Identification of pharmacy support person.**

**5.15(1) Name badge.** A pharmacy support person shall wear a name badge or other form of identification while on duty which clearly identifies the person as a pharmacy support person.

**5.15(2) Misrepresentation prohibited.** A pharmacy support person shall not, in any manner, represent himself or herself as a pharmacist, a pharmacist-intern, or a pharmacy technician.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.16 Reserved.**

**657—5.17(155A) Tasks a pharmacy support person shall not perform.** A pharmacy support person shall not perform any of the following judgmental or technical functions. Performance of any of these tasks by a pharmacy support person shall constitute the practice of pharmacy without a license in violation of Iowa Code section 155A.7. A pharmacy support person shall not:

1. Provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order.

2. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A).

3. Provide patient counseling, consultation, or patient-specific drug information; make an offer of patient counseling on behalf of the pharmacist; or accept a refusal of patient counseling from a patient or patient's agent.

4. Make decisions that require a pharmacist's professional judgment, such as interpreting or applying information.

5. Accept by oral communication any new or refill prescription authorizations communicated to a pharmacy by a prescriber or by the prescriber's office or contact a prescriber to obtain prescription refill authorizations.

6. Provide a prescription or drug to a patient without a pharmacist's verification as to the accuracy of the dispensed medication and without the physical presence of a pharmacist.

7. Package, pour, or place in a container for dispensing, sale, distribution, transfer, vending, or barter any drug which, under federal or state laws, may be sold or dispensed only pursuant to the prescription of a practitioner authorized to prescribe drugs. This prohibited task includes the addition of water or other liquid for reconstitution of oral antibiotic liquids. A pharmacy support person may place

a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

8. Affix required prescription labels upon any container of drugs sold or dispensed pursuant to the prescription of an authorized prescriber.

9. Process or enter pertinent patient or prescription information, including entry of that information into the pharmacy computer system, except as provided in rule 657—5.18(155A).

10. Prepackage or label multidose and single-dose packages of drugs, including dose picks for unit dose cart fills for hospital or long-term care facility patients.

11. Check or inspect drug supplies provided and controlled by an Iowa-licensed pharmacy but located or maintained outside the pharmacy department, including but not limited to drug supplies maintained in an ambulance or other emergency medical service vehicle, a long-term care facility, a hospital nursing unit, or a hospice facility.

12. Reconstitute prefabricated noninjectable medication, prepare parenteral products, or compound sterile or nonsterile drug products.

13. Communicate, transmit, or receive patient or prescription information to or from the pharmacy for the purpose of transferring a patient's prescription between pharmacies.

14. Assist with or witness the destruction or wastage of controlled substances pursuant to 657—subrule 10.18(2).

15. Perform any of the duties identified in 657—Chapter 3 as technical functions that may be delegated to a pharmacy technician.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9785B, IAB 10/5/11, effective 11/9/11]

**657—5.18(155A) Nontechnical pharmacy support tasks.** An appropriately trained and registered pharmacy support person may perform any of the following nontechnical functions that have been delegated to the pharmacy support person by the supervising pharmacist:

1. Perform the duties of a pharmacy clerk. The duties of a pharmacy clerk may include placing a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

2. Process wholesale drug orders, including the submission of orders, the receipt and processing of drug deliveries from drug wholesalers, reconciling products received with packing slips or invoices, and affixing appropriate inventory or price stickers to drug stock bottles or containers.

3. Perform routine clerical duties, such as filing processed, hard-copy prescriptions and other pharmacy records.

4. Update or change patient demographic information, excluding allergies and disease state information, in the pharmacy computer system or patient profile.

5. Receive from a patient the patient's request for a prescription refill, excluding the processing of the refill request.

6. Perform pharmacy drug inventory control duties, including checking pharmacy stock shelves for outdated drugs and assisting with annual inventory counts.

7. Deliver drugs to patient care areas, long-term care facilities, patient residences, or patient employment locations, excluding the restocking of automated medication distribution system components.

8. Perform any routine clerical or pharmacy support function not prohibited in rule 657—5.17(155A).

9. In nuclear pharmacy practice, perform nonjudgmental tasks under the direct supervision of a nuclear pharmacist pursuant to 657—Chapter 16.

[ARC 8673B, IAB 4/7/10, effective 6/1/10; ARC 9785B, IAB 10/5/11, effective 11/9/11]

**657—5.19** Reserved.

**657—5.20(155A) Training and utilization of pharmacy support persons.** All Iowa-licensed pharmacies utilizing pharmacy support persons shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy support persons. Pharmacy

policies shall specify the frequency of review. Pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Such policies and procedures and documentation of pharmacy support person training shall be available for inspection by the board or an agent of the board.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.21(155A) Responsibility of supervising pharmacist.** The ultimate responsibility for the actions of a pharmacy support person working under a supervising pharmacist shall remain with the supervising pharmacist.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.22(155A) Delegation of nontechnical functions.** A pharmacist may delegate nontechnical functions to an appropriately trained and registered pharmacy support person, but only if the pharmacist is present to supervise the pharmacy support person when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.23** Reserved.

**657—5.24(155A) Denial of registration.** The board may deny an application for registration as a pharmacy support person for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.25(147,155A) Unethical conduct or practice.** Violation by a pharmacy support person of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule 657—5.26(155A).

**5.25(1) Misrepresentative deeds.** A pharmacy support person shall not make any statement tending to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

**5.25(2) Confidentiality.** In the absence of express consent from the patient or order or direction of a court, except where the best interests of the patient require, a pharmacy support person shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, a licensed pharmacist, or a person duly authorized by law to receive such information the contents of any prescription or the therapeutic effect thereof or the nature of professional pharmaceutical services rendered to a patient; the nature, extent, or degree of illness suffered by any patient; or any medical information furnished by the prescriber.

**5.25(3) Discrimination.** It is unethical for a pharmacy support person to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, sex, sexual orientation, gender identity, age, national origin, or disease state when providing pharmaceutical services.

**5.25(4) Unethical conduct or behavior.** A pharmacy support person shall not exhibit unethical behavior in connection with the pharmacy support person's pharmacy employment. Unethical behavior shall include, but is not limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

**657—5.26(155A) Discipline of pharmacy support persons.**

**5.26(1) Violations.** The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

**5.26(2) Sanctions.** The board may impose the following disciplinary sanctions:

a. Revocation of a pharmacy support person registration.

- b.* Suspension of a pharmacy support person registration until further order of the board or for a specified period.
- c.* Nonrenewal of a pharmacy support person registration.
- d.* Prohibition, permanently, until further order of the board, or for a specified period, from engaging in specified procedures, methods, or acts.
- e.* Probation.
- f.* Imposition of civil penalties not to exceed \$25,000.
- g.* Issuance of citation and warning.
- h.* Such other sanctions allowed by law as may be appropriate.

[ARC 8673B, IAB 4/7/10, effective 6/1/10]

These rules are intended to implement Iowa Code sections 147.55, 155A.3, 155A.18 and 155A.23 and 2009 Iowa Code Supplement section 155A.6B.

[Filed ARC 8673B (Notice ARC 8380B, IAB 12/16/09), IAB 4/7/10, effective 6/1/10]

[Filed Emergency ARC 9009B, IAB 8/11/10, effective 7/23/10]

[Filed ARC 9785B (Notice ARC 9556B, IAB 6/15/11), IAB 10/5/11, effective 11/9/11]



CHAPTER 11  
DRUGS IN EMERGENCY MEDICAL SERVICE PROGRAMS  
[Prior to 2/10/88, see Pharmacy Examiners[620] Ch 11]

**657—11.1(124,147A,155A) Definitions.** For the purpose of this chapter, the following definitions shall apply:

*“Adulterated”* means any drug or device that consists in whole or in part of any filthy, putrid, or decomposed substance.

*“Ambulance service”* means any privately or publicly owned service program that utilizes ambulances, including air transport vehicles, in order to provide patient transportation and emergency medical services.

*“Authorized prescriber”* means any provider who has prescriptive authority in the state of Iowa.

*“Board”* means the board of pharmacy.

*“Bureau”* means the Iowa department of public health, bureau of emergency medical services (EMS).

*“Controlled substance”* means any drug that is identified in Schedules I through V of Iowa Code chapter 124, the Iowa uniform controlled substances Act.

*“CSA registration”* means a registration issued by the board pursuant to Iowa Code chapter 124, the Iowa uniform controlled substances Act.

*“DEA”* means the U.S. Department of Justice, Drug Enforcement Administration.

*“DEA registration”* means a registration issued by the DEA pursuant to 21 CFR Part 1301.

*“Department”* means the Iowa department of public health.

*“Drug”* means a substance as defined in Iowa Code section 155A.3(13).

*“Emergency medical care provider”* means an emergency medical care provider as defined in 641—131.1(147A).

*“Emergency medical services”* or *“EMS”* means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

*“Emergency medical technician”* or *“EMT”* means any emergency medical technician or EMT as defined in 641—131.1(147A).

*“Medical direction”* means direction, advice, or orders provided, in accordance with written parameters and protocols, to emergency medical care personnel by a medical director, supervising physician, or physician designee.

*“Medical director”* means any physician licensed under Iowa Code chapter 148 who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

*“Medical director-based”* means that ownership of the drugs maintained in and used by the service program remains with the medical director.

*“Patient care report”* or *“PCR”* means a computerized or written report that documents the assessment and management of the patient by the emergency care provider in the out-of-hospital setting.

*“Pharmacy-based”* means that ownership of the drugs maintained in and used by the service program remains with the pharmacy.

*“Physician”* means any individual licensed under Iowa Code chapter 148.

*“Physician assistant”* or *“PA”* means any individual licensed under Iowa Code chapter 148C.

*“Physician designee”* means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistant examiners. The physician designee acts as an intermediary for a supervising physician, in accordance with written policies and protocols, in directing the care provided by emergency medical care providers.

*“Primary program site”* means the physical location from which the service program is operated and at which stock supplies of prescription drugs may be maintained and distributed to a program vehicle and a program substation.

*“Program substation”* means the physical location from which a service program is operated as a branch or extension of a primary program site, at which an emergency kit or supply of prescription drugs is maintained, and at which a stock supply of prescription drugs is not maintained.

*“Protocols”* means written direction and orders, consistent with the department’s standard of care, that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols shall be approved by the service program’s medical director and shall address the care of both adult and pediatric patients.

*“Responsible individual”* or *“RI,”* as this term relates to prescription drugs in a medical director-based service, means the medical director for the service. In a pharmacy-based service, *“responsible individual”* means the pharmacist in charge of the pharmacy.

*“Service”* or *“service program”* means any medical care ambulance service or nontransport service that has received authorization from the department.

*“Service director”* means the individual who is responsible for the operation and administration of a service program.

*“Supervising physician”* means any physician licensed under Iowa Code chapter 148 who supervises and is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.2(124,147A,155A) Responsibility.** Pursuant to rules of the bureau, each service program shall appoint a service director at the primary program site.

**11.2(1) Pharmacy-based.** In a pharmacy-based service program, the pharmacist in charge shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations. The pharmacist in charge shall not serve as the service director.

**11.2(2) Medical director-based.** In a medical director-based service program, the medical director shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations.

**11.2(3) Combination pharmacy-based and medical director-based.** If both pharmacy-based and medical director-based programs are in effect, the pharmacist in charge of the pharmacy and the medical director shall be responsible for management of the drugs owned by the pharmacy and by the medical director, respectively.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.3(124,147A,155A) Written agreement.** A signed written formal agreement for the service program shall be maintained at the primary program site and be available for inspection and copying by the board or its representative.

**11.3(1) Pharmacy-based programs.** An Iowa-licensed pharmacy may enter into an agreement with a service program located in the state. The agreement with the service program shall establish that the service is operating as an extension of the pharmacy with respect to prescription drugs. The agreement shall be signed by the pharmacist in charge and the service director at the primary program site. A copy of this agreement shall be maintained at both the pharmacy and the primary program site while the agreement is in effect.

**11.3(2) Medical director-based programs.** A service program shall maintain a formal written agreement with a medical director that is signed by the medical director and the service director. The agreement shall be maintained at the primary program site while the agreement is in effect. The medical director of the service program shall maintain a CSA registration and a DEA registration at the primary program site as required by rule 657—11.6(124,147A,155A).

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.4(124,147A,155A) Termination of services.** EMS services may be terminated at the discretion of either the EMS program or the party or parties responsible for providing drugs to the EMS program. Written notification of such termination shall be provided to the other party at least 30 days prior to

termination of services. Transfer of ownership of controlled substances shall be in compliance with rule 657—10.11(124).

**11.4(1) *Pharmacy-based programs.*** Immediately upon discontinuation of services, all controlled substances shall be jointly inventoried by the pharmacist in charge and the service director or their designees. A record of this inventory shall be maintained at the pharmacy for two years from the date of the inventory. All drugs and devices that are the property of the pharmacy shall be immediately returned to the pharmacy.

**11.4(2) *Medical director-based programs.*** Immediately upon discontinuation of services, all controlled substances shall be jointly inventoried by the medical director and the service director or their respective designees. A record of this inventory shall be maintained by the medical director for two years and be available for inspection and copying by the board or its representative. All drugs and devices that are the property of the medical director shall be immediately returned to the medical director.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.5** Reserved.

**657—11.6(124,147A,155A) Registration required.** If the program is a medical director-based service program, the medical director shall obtain and maintain current CSA registration and DEA registration at the primary program site prior to commencement of responsibilities as medical director. CSA and DEA registrations shall be obtained for each primary program site and shall be available for inspection and copying by the board or its representative and any other authorized agencies. Separate registrations for program substations shall not be required.

**11.6(1) *Change of address of registered primary program site.*** An individual practitioner may apply to change the address of the registered primary program site by submitting a request as provided in 657—subrule 10.11(2). The board and the DEA shall be notified in writing prior to a change of address of a registered primary program site.

**11.6(2) *Change of medical director of a medical director-based program.*** The board shall be notified in writing prior to the change of medical director. The new medical director shall obtain a CSA registration and a DEA registration for the primary program site prior to commencement of responsibilities as medical director. Separate registrations for program substations shall not be required.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.7** Reserved.

**657—11.8(124,147A,155A) Identification.**

**11.8(1)** A log of employees who have access to prescription drugs and to records regarding procurement, storage, and administration of prescription drugs at the service program shall be maintained for two years and be available for inspection and copying by the board or its representative. This log shall include the employees' printed names and signatures, printed and signed initials or other unique identification used in service program records, and the employees' levels of certification.

**11.8(2)** Policies and procedures shall be developed, implemented, and adhered to that identify at least the following:

- a. Who has access to drugs.
- b. Who has authority to administer drugs.
- c. Who has authority to order, receive, and distribute prescription drugs and devices.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.9** Reserved.

**657—11.10(124,147A,155A) Ownership of prescription drugs.** All prescription drugs obtained for use in a service program shall be owned either by a pharmacy or by the medical director of the service program.

**11.10(1) *Pharmacy-based.*** If the drugs are owned by the pharmacy, the service program shall be considered a pharmacy-based service program and shall comply with these rules as they pertain to a pharmacy-based service program.

**11.10(2) *Medical director-based.*** If the drugs are owned by the medical director, the service program shall be considered a medical director-based service program and shall comply with these rules as they pertain to a medical director-based service program.

**11.10(3) *Combination pharmacy-based and medical director-based.*** If the service program has entered into both pharmacy-based and medical director-based service program agreements, both the pharmacy and the medical director shall retain separate ownership of the prescription drugs supplied and shall comply with these rules as applicable.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.11(124,147A,155A) Policies and procedures.**

**11.11(1)** Each service program shall, jointly with the service director and the responsible individual, develop, implement, and adhere to written policies and procedures for the operation and management of the service program with respect to prescription drugs and devices. These policies and procedures shall be available for inspection and copying by the board or its representative. The policies and procedures shall be periodically reviewed by the responsible individual, the medical director, and the service director. Documentation of the review shall be maintained.

**11.11(2)** The policies and procedures shall address, at a minimum, the following:

- a.* Storage of drugs at the primary program site and any program substations including appropriate temperature and humidity controls and security.
- b.* Protocols for administration of drugs.
- c.* Administration of drugs outside the parameters of written protocols.
- d.* Record retention and format including:
  - (1) Ownership of drugs.
  - (2) Ordering of drugs and devices.
  - (3) Receipt of drugs and devices.
  - (4) Distribution or administration of drugs and devices.
  - (5) Inspections of the primary program site, program substations, and drug supplies.
  - (6) Inventories of controlled substances.
  - (7) Wastage resulting from the administration of a partial dose or supply of a drug.
  - (8) Drug or device returns.
- e.* Process for the return of drugs.
- f.* Out-of-date and adulterated drugs.
- g.* Drug and device recalls.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.12 Reserved.**

**657—11.13(124,147A,155A) Storage.** Prescription drugs at primary program sites and program substations shall be stored in designated secure areas that are clean and free of debris, where temperature and humidity are appropriately controlled, and in a manner to protect identity and integrity.

**11.13(1) *Temperature.*** All drugs shall be stored at the proper temperature. Drugs that are subjected to extreme temperatures shall not be administered to patients and shall be immediately removed from usable stock. Extreme temperatures shall be defined as excessive heat greater than 40 degrees Celsius (104 degrees Fahrenheit) and, if the product requires protection from freezing temperatures, excessive cold less than -10 degrees Celsius (13 degrees Fahrenheit). Disposal of unusable drugs shall be in compliance with rule 657—11.32(124,147A,155A).

**11.13(2) *Security.*** The security of prescription drugs is the responsibility of the responsible individual. Policies and procedures for the security of prescription drugs shall provide for the effective control against theft of, diversion of, or unauthorized access to prescription drugs, records for such

drugs, and patient records. These policies and procedures shall indicate who has access to prescription drugs.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.14(124,147A,155A) Protocols.** Every service program shall utilize department protocols as the standard of care. The service program medical director may make changes to the department protocols provided the changes are within the EMS provider's scope of practice and within acceptable medical practice. Prescription drugs shall be administered pursuant only to a written protocol or oral order by an authorized prescriber. Records of current protocols shall be provided to and maintained by the responsible individual and the service director.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.15(124,147A,155A) Administration of drugs beyond the limits of the written protocol.** Drugs, excluding Schedule II controlled substances in a pharmacy-based service, as provided in rule 657—11.16(124,147A,155A), may be administered beyond the limits of the written protocols provided that medical direction from an authorized prescriber has been obtained prior to administration. The authorization shall be recorded in the patient care report documenting the identity of the authorizing prescriber. If an agent of the authorized prescriber relayed the order, the identity of the prescriber's agent, including the agent's first and last names and title, shall also be recorded.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.16(124,147A,155A) Administration of Schedule II controlled substances—pharmacy-based service.** In a pharmacy-based service, Schedule II controlled substances may be administered to patients under the care of a service program provided that a signed order is delivered by the authorized prescriber to the pharmacy within seven days of the date administration was authorized.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.17 and 11.18** Reserved.

**657—11.19(124,147A,155A) Patient care reports.** Patient care reports shall be maintained at the primary program site or the program substation as required by the bureau and rule 657—11.34(124,147A,155A).

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.20(124,147A,155A) Prescription drugs in EMS programs.** Prescription drugs maintained by a service program shall be owned by an Iowa-licensed pharmacy or the service program's medical director.

**11.20(1) Pharmacy-based.** The pharmacist in charge, medical director, and the service director shall jointly develop a list of drugs to be maintained for administration by the service program. The pharmacy shall maintain an accurate list of all prescription drugs including controlled substances that the pharmacy maintains at the primary program site and at any program substation.

*a. Replenishment.* The responsible individual, the service director, or designee may request that replenishment supplies of drugs be maintained at the primary program site provided that the pharmacy has been supplied with administration records justifying the order. The pharmacist shall approve every drug taken from the pharmacy's dispensing stock prior to the transfer of the drug to the primary program site. Documentation of this verification shall be maintained within the pharmacy records.

*b. Inspections.* The pharmacist in charge shall ensure the completion of a monthly inspection of all prescription drugs maintained by the pharmacy at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. All drugs removed from administration stock shall be returned to the pharmacy. Records of inspection shall be maintained for two years at the pharmacy. The pharmacist in charge may delegate the conduct of the monthly inspection to another pharmacist, a certified pharmacy technician, or the service director.

**11.20(2) Medical director-based.** The medical director and the service director shall jointly develop a list of drugs to be maintained for administration by the service program. The medical director shall maintain an accurate list of all prescription drugs including controlled substances that the medical director maintains at the primary program site and at any program substation. EMS personnel shall have authority to handle prescription drugs and devices pursuant to their scope of practice as defined by the bureau.

*a. Replenishment.* All drugs procured for administration in a medical director-based service program shall be obtained from an Iowa-licensed wholesaler, a pharmacy, or an authorized prescriber.

*b. Inspections.* The medical director shall ensure the completion of a monthly inspection of all prescription drugs maintained by the medical director at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. Records of inspection shall be maintained for two years at the primary program site or the program substation. The medical director may designate EMS personnel to conduct required inspections.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.21** Reserved.

**657—11.22(124,147A,155A) Return of drugs.** Drugs that have been removed from administration stock shall be returned to the responsible individual. In a pharmacy-based service, drugs returned from the service program to the base pharmacy may be used by the pharmacy for subsequent dispensing or administration provided the drugs are not outdated or adulterated. Records of the return of prescription drugs shall be maintained by the responsible individual.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.23(124,147A,155A) Out-of-date drugs or devices.** Any drug or device bearing an expiration date shall not be administered beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from administration stock and quarantined until such drugs or devices are properly disposed of or, if the service program is a pharmacy-based service, returned to the base pharmacy. Outdated drugs are the property of the responsible individual and shall be disposed of appropriately. Outdated controlled substances shall be disposed of pursuant to rule 657—11.32(124,147A,155A).

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.24(124,147A,155A) Product recall.** All service programs shall have a system for removal from administration stock all prescription drugs or devices subject to a product recall. The system shall include action appropriate to the direction or requirements of the recall.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.25** Reserved.

**657—11.26(124,147A,155A) Controlled substances records.**

**11.26(1) Records maintained.** Every inventory or other record required to be maintained under this chapter, 657—Chapter 10, or Iowa Code chapter 124 shall be maintained at the primary program site or the program substation and by the pharmacy if the service program is pharmacy-based. All required records shall be available for inspection and copying by the board or its representative for at least two years from the date of such record. Controlled substances records shall be maintained in a readily retrievable manner.

**11.26(2) Receipt and disbursement records.** Any pharmacy or other authorized registrant that provides controlled substances for a medical director-based service program shall maintain records of receipt and disbursement that include the following:

- a.* The name of the substance;
- b.* The strength and dosage form of the substance;
- c.* The number of units or commercial containers acquired from other registrants, including the date of receipt and the name, address, and DEA registration number of the registrant from whom the substances were acquired;

d. The number of units or commercial containers distributed to other registrants, including the date of distribution and the name, address, and DEA registration number of the registrant to whom the substances were distributed; and

e. The number of units or commercial containers disposed of in any other manner, including the date and manner of disposal and the name, address, and DEA registration number of the registrant to whom the substances were distributed for disposal, if appropriate.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based.** Except as otherwise provided by 657—subrule 10.34(7) and under federal law, a DEA Form 222, preprinted with the address of the primary program site, is required to be maintained at the primary program site for the acquisition of each supply of a Schedule II controlled substance. The order form shall be executed only by the medical director named on the order form or by an authorized signer designated pursuant to a properly executed power of attorney. A DEA Form 222 shall be dated and signed as of the date the order is submitted for filling. A medical director or authorized signer shall not pre-sign a DEA Form 222 for subsequent completion. All Schedule II order forms shall be maintained at the primary program site and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.28** Reserved.

**657—11.29(124,147A,155A) Schedule II controlled substances perpetual inventory.** Each service program located in Iowa that administers Schedule II controlled substances shall maintain a perpetual inventory for all Schedule II controlled substances pursuant to the requirements of this rule. All records relating to the perpetual inventory shall be maintained at the primary program site and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

**11.29(1) Record.** The perpetual inventory record may be maintained in a manual or an electronic record format. Any electronic record shall provide for hard-copy printout of all transactions recorded in the perpetual inventory record for any specified period of time and shall state the current inventory quantities of each drug at the time the record is printed. An electronic record entry, once recorded, shall not be changed; any adjustments or corrections shall require entry of a separate record as provided in subrule 11.29(3).

**11.29(2) Information included.** The perpetual inventory record shall identify all receipts and disbursements of Schedule II controlled substances by drug name or by National Drug Code (NDC), including each patient administration, wastage, return to the responsible individual, and disposal of a drug. The record of receipt shall also identify the source of the drug, the strength and dosage form, the quantity, the date, and the name or unique identification of the individual verifying receipt of the drug. The disbursement record shall identify where or to whom the drug is disbursed or administered, the strength and dosage form, the quantity, the date, and the name or unique identification of the individual responsible for the disbursement.

**11.29(3) Adjustments or corrections to the record.** Any adjustments or corrections made to the perpetual inventory shall include the identity of the person making the adjustment or correction and the reason for the adjustment or correction.

**11.29(4) Reconciliation.** The pharmacist in charge or designee in a pharmacy-based program, or the medical director or designee in a medical director-based program, shall be responsible for reconciling the physical inventory of all Schedule II controlled substances with the perpetual inventory balance on a periodic basis but no less frequently than monthly. Any discrepancy shall be reported to the medical director and to the pharmacist in charge if the service program is a pharmacy-based program.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.30(124,147A,155A) Controlled substances annual inventory.** An accurate inventory shall be taken annually of all controlled substances maintained at the primary program site and program substations. Controlled substances in a pharmacy-based program shall be included in the pharmacy's annual controlled substances inventory. Records of the inventory shall be maintained pursuant to rule 657—11.34(124,147A,155A).

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.31** Reserved.

**657—11.32(124,147A,155A) Destruction or disposal of controlled substances.** Disposal or destruction of controlled substances shall be pursuant to the requirements of this rule and rule 657—11.29(124,147A,155A). Records shall be maintained at the primary program site and, if the program is a pharmacy-based service, records shall be maintained at the pharmacy.

**11.32(1) Outdated, adulterated, or unwanted supply.** EMS personnel shall not destroy any controlled substances except as provided in subrule 11.32(2). Any drug that requires disposal or destruction shall be removed from administration stock and quarantined until the drug can be returned to the responsible individual. The responsible individual shall dispose of or destroy controlled substances according to the following procedures:

*a.* The responsible individual shall utilize the services of a DEA-registered and Iowa-licensed disposal firm (reverse distributor), or

*b.* The responsible individual shall utilize such other means determined and approved by the board.

**11.32(2) Administration wastage.** Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient may be destroyed or otherwise disposed of by the administering EMS personnel, the medical director, or a pharmacist. Any wastage of a controlled substance shall be conducted in the presence of a responsible adult witness who is a member of the EMS team, a member of the professional or technician pharmacy staff, or a licensed health professional. A written or electronic record of controlled substance wastage shall be made and maintained at the primary program site and, if the program is a pharmacy-based service, at the pharmacy, for a minimum of two years following the destruction or other disposal. The record shall include the signatures or other unique identification of the witness and of the individual destroying or otherwise disposing of the wastage of the controlled substance and shall identify the following:

*a.* The controlled substance wasted;

*b.* The date of destruction or other disposition;

*c.* The quantity or estimated quantity of the wasted controlled substance;

*d.* The source of the controlled substance, including identification of the patient to whom the substance was administered; and

*e.* The legibly printed names of the person wasting the unused portions of the controlled substance and of the qualified witness.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.33(124,147A,155A) Report of loss or theft of controlled substance.** Upon suspicion of any loss or theft of a controlled substance, the service director shall immediately notify the responsible individual. The responsible individual shall notify the DEA pursuant to rule 657—10.16(124) and federal regulations. The responsible individual shall report in writing, on forms provided by the board or as directed by the board, any theft or significant loss of any controlled substance. The report shall be submitted to the board office within two weeks of the discovery of the theft or loss. A copy of the report shall be maintained at the primary program site and, if the program is a pharmacy-based service, at the pharmacy.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

**657—11.34(124,147A,155A) Records.** If a service program includes a primary program site and one or more program substations, the records of the service program shall identify the primary program site



and each program substation. Records regarding program substation activities, including drug supply and administration records, may be maintained at the primary program site but shall clearly identify the program substation to which the records apply. All records regarding prescription drugs and devices in a service program shall be maintained for two years and be available for inspection and copying by the board or its representative.

[ARC 9786B, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code chapter 147A and Iowa Code sections 124.301 and 155A.13.

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CHAPTERS 38 and 39  
Reserved



CHAPTER 40  
TECH-CHECK-TECH PROGRAMS

**657—40.1(155A) Purpose and scope.** The board may authorize a hospital pharmacy to participate in a tech-check-tech program. The board may authorize a general pharmacy providing pharmaceutical services to patients in a long-term care facility as defined herein to participate in a tech-check-tech (TCT) program for dispensing only to patients in the long-term care facility. The purpose of the tech-check-tech program is to authorize certified pharmacy technicians to review the work of other certified pharmacy technicians in connection with the filling of floor stock, including automated medication distribution systems (AMDS) and unit dose dispensing systems for institutionalized patients whose orders have previously been reviewed and approved by a licensed pharmacist, for the purpose of redirecting and optimizing pharmacist patient care services. Implementation of a tech-check-tech program is not intended to reduce pharmacist staffing levels but is intended to increase the availability of the pharmacist for involvement in cognitive and patient care activities.

[ARC 9783B, IAB 10/5/11, effective 11/9/11]

**657—40.2(155A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

*“Automated medication distribution system”* or *“AMDS”* includes, but is not limited to, an automated device or series of devices operated by an electronic interface with one or more computers that is used to prepare, package, or dispense specified dosage units of drugs for administration or dispensing to a patient or the ultimate user. *“AMDS”* includes a device that prepares and packages a drug for unit dose dispensing, that prepares and packages a drug into outpatient prescription vials, and that dispenses prepackaged drugs.

*“Board”* means the board of pharmacy.

*“Certified medication aide”* means an individual who has successfully completed a medication aide course approved by the Iowa department of inspections and appeals or who has passed a medication aide challenge examination approved by the Iowa department of inspections and appeals and administered by an area community college. A “certified medication aide” is not a “licensed health care professional” as that term is used herein.

*“Certified pharmacy technician”* means an individual who holds a valid current national certification and who has registered with the board as a certified pharmacy technician pursuant to 657—Chapter 3.

*“Checking technician”* means a certified pharmacy technician who has been authorized by the pharmacist in charge to participate in a TCT program by checking the work of other certified pharmacy technicians.

*“Component”* means any single physical or electronic storage or access device that, in combination with other devices, makes up an AMDS.

*“Drug bin”* means a compartment in an AMDS component that is designed to contain one specific drug.

*“Floor stock”* means a supply of drugs consisting of emergency drugs and controlled substances that are routinely maintained on patient care units and accessible by nursing staff for patient administration.

*“Hospital pharmacy”* means a pharmacy licensed by the board pursuant to 657—Chapter 7 and located within a facility which is primarily engaged in providing, by or under the supervision of physicians, concentrated medical and nursing care on a 24-hour basis to inpatients and which maintains and operates organized facilities for the diagnosis, care, and treatment of human illnesses.

*“Long-term care facility”* means a nursing home, retirement care, mental care, or other facility or institution which provides extended health care to resident patients and which is registered by the board for controlled substances under Iowa Code chapter 124.

*“Medication order”* means a written or electronic order from a practitioner or an oral order from a practitioner or the practitioner’s authorized agent for administration of a drug or device and, for purposes of this chapter, includes a prescription drug order.

*“TCT program”* means a board-approved tech-check-tech program implemented and formally established pursuant to these rules by the pharmacist in charge who has determined that one or more

certified pharmacy technicians are qualified to safely check the work of other certified pharmacy technicians and thereby provide final verification of drugs which are dispensed for subsequent administration to patients in an institutional setting.

*“Unit dose dispensing system”* means a drug distribution system utilizing single unit, unit dose, or unit of issue packaging in a manner that helps reduce or remove traditional drug stocks from patient care areas, enables the selection and distribution of drugs to be pharmacy-based and controlled, and improves accountability and accuracy.

[ARC 9783B, IAB 10/5/11, effective 11/9/11]

**657—40.3(155A) General requirements.** To participate in a TCT program, a hospital pharmacy shall be located in Iowa and provide pharmaceutical services to patients receiving treatment in a hospital located in Iowa. To participate in a TCT program, a general pharmacy shall be located in Iowa, and a TCT program shall only be implemented to provide pharmaceutical services to patients in a long-term care facility located in Iowa.

**40.3(1) Site-specific.** A TCT program shall be specific to the site at which implementation of the program is proposed and shall include a site-specific training program tailored to the patient population and the drug distribution system utilized.

**40.3(2) Plan approval.** At least 90 days prior to anticipated implementation of a TCT program, the pharmacist in charge shall submit the program plan, consistent with the requirements of these rules, for board approval. A pharmacy shall not implement a TCT program prior to receipt of notification that the board has approved the submitted TCT program plan.

**40.3(3) Technician utilization plan.** The pharmacy technician utilization plan shall specifically identify the individual certified pharmacy technicians authorized to participate in the TCT program and shall identify in detail the types of work that the certified pharmacy technicians may perform and check. The pharmacy shall include participation in the TCT program in the defined duties of any certified pharmacy technician authorized to participate in the TCT program, and if the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, that function shall be clearly identified in the checking technician’s duties.

**40.3(4) Certified pharmacy technician participation.** All of the following shall apply to a certified pharmacy technician authorized to participate in a TCT program.

*a. National certification.* The certified pharmacy technician’s national certification shall be current and in good standing.

*b. Iowa registration.* The certified pharmacy technician’s registration with the board shall be current, in good standing, and not currently subject to disciplinary charges or sanctions.

*c. Prior experience.* The checking technician shall be working at the pharmacy full- or part-time and shall have met the experience requirement for a checking technician as specified in policies and procedures and in the TCT program plan.

*d. Training.* The certified pharmacy technician shall complete site-specific training in the TCT program and the functions to be performed by the certified pharmacy technician as part of the TCT program.

*e. Specialized training for checking technician.* A certified pharmacy technician who is a checking technician shall receive specialized and advanced training as provided in policies and procedures, including training in the prevention, identification, and classification of medication errors. The training program for a checking technician shall be didactic in nature and shall include successful completion of a competency test.

**40.3(5) Responsible individuals.** The pharmacist in charge may designate one pharmacist to be responsible for meeting TCT program training and validation requirements and may designate one or more pharmacists to supervise the activities of certified pharmacy technicians authorized to participate in the TCT program. A pharmacist supervising TCT program activities shall provide program plan evaluation information to the responsible pharmacist or the pharmacist in charge for collection and analysis. Each individual involved in the TCT program shall be responsible for the activities performed by that individual and for ensuring that those activities adhere to the TCT program policies and

procedures and comply with board rules. The pharmacist in charge shall be ultimately responsible for TCT program activities and for development and implementation of TCT program policies and procedures.

**40.3(6) *Policies and procedures.*** Parameters for supervising the activities of certified pharmacy technicians participating in the TCT program, including but not limited to specialized and advanced training for checking technicians, shall be specified in policies and procedures regarding the utilization of pharmacy technicians. Policies and procedures shall provide for continuous evaluation of certified pharmacy technicians authorized to participate in the TCT program, shall identify benchmarks and sentinel events, shall define an excessive overall error rate, shall address certified pharmacy technician retraining procedures, and shall address pharmacy staffing.

**40.3(7) *Staffing.*** Pharmacy staffing shall be adequate to ensure consistent and safe implementation of the TCT program and to optimize pharmacist patient care services.

**40.3(8) *Pharmacist review.*** Except in an emergency, when the pharmacy is closed, or when the prescriber is directly supervising and overseeing the administration of the drug to the patient, a pharmacist shall review all orders against a medication profile as required by rule 657—8.21(155A). A pharmacist shall be on site and available to certified pharmacy technicians during any period that TCT functions are being performed.

**40.3(9) *Additional drug check prior to administration.*** The drug distribution system shall be structured so that at least one additional check of dispensed drugs, following dispensing and checking by a checking technician, is completed by a licensed health care professional in the facility prior to administration of the drug to the patient. A licensed health care professional or certified medication aide shall administer the drug to the patient. The TCT program plan shall identify the individuals authorized to administer the drug to the patient. The identification of these individuals may consist of a description of the classification of the authorized individuals, such as “registered nurse,” “licensed practical nurse,” or “certified medication aide,” or the identification may specifically identify the authorized individuals by name and title. Alternatively, the identification may reference an existing facility policy or procedure that identifies or specifies the individuals authorized to administer a drug to a patient.

**40.3(10) *Program evaluation.*** Implementation of a TCT program shall result in the redirection of the pharmacist from distributive tasks to cognitive and patient care activities. As part of an ongoing program review and evaluation as provided in subrule 40.4(5), the pharmacist in charge or designee shall document the specific cognitive and patient care activities, and a summary of the approximate amount of time pharmacists spend on those activities, as a result of implementation of the TCT program. Program review and evaluation records shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

[ARC 9783B, IAB 10/5/11, effective 11/9/11]

**657—40.4(155A) TCT program requirements.** A TCT program shall be conducted in compliance with the following requirements.

**40.4(1) *Training of checking technician.*** No certified pharmacy technician shall be designated or authorized by the pharmacist in charge or responsible pharmacist to perform, nor shall a certified pharmacy technician perform, the function of checking the work of another certified pharmacy technician without having received and satisfactorily completed the specialized and advanced training provided for in the pharmacy’s policies and procedures. The specialized training shall include the prevention, identification, and classification of medication errors. Training requirements shall include provisions for retraining of a checking technician who fails to maintain the level of competence necessary for the performance of authorized duties as demonstrated by the technician’s failure to satisfactorily meet ongoing evaluation and competency audits.

**40.4(2) *Authorized checking functions.*** A certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to check the work of another certified pharmacy technician may check activities relating to the filling of floor stock, unit dose distribution systems, proprietary bag and vial systems or manufactured premix intravenous products, and AMDS components for hospital and long-term care facility patients. Medication orders shall have previously been reviewed

by a licensed pharmacist against the patient's medication profile, and the prepared drugs shall be checked by at least one additional licensed health care professional in the facility at the time the drugs are administered to a patient. The checking function performed by the checking technician shall be limited to those types of drugs identified in the written TCT program plan, and the TCT program plan shall specifically describe the method for verifying cassette or drug bin fills.

**40.4(3) *Certified pharmacy technician evaluation.*** The responsible pharmacist shall conduct continuous monitoring and evaluation of each certified pharmacy technician authorized to participate in the TCT program in order to ensure the continued competency of the certified pharmacy technicians and the safety of patients. As a component of the pharmacy's continuous quality improvement program and except as otherwise specifically provided by these rules, errors shall be identified and records maintained as provided in rule 657—8.26(155A).

*a. Periodic review and pharmacist check.* Evaluation shall include periodic review and checking by the pharmacist of work checked by the checking technician and identification and documentation of all errors not identified and corrected by the checking technician.

*b. Review of errors identified by pharmacist or checking technician.* The responsible pharmacist shall review with all certified pharmacy technicians involved any errors identified during the evaluation and shall discuss procedures to ensure the errors are not repeated.

*c. Review of errors identified following release by checking technician.* The responsible pharmacist shall receive, evaluate, and review with all certified pharmacy technicians involved any errors identified by a health care professional, a certified medication aide, a patient, or any other individual following release of a drug by the checking technician.

**40.4(4) *Records.*** The pharmacist in charge shall maintain in the pharmacy department a record for each certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to participate in the TCT program. The record shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years beyond the term of the certified pharmacy technician's employment. The record shall include:

*a.* The name of the certified pharmacy technician.

*b.* The date on which the certified pharmacy technician completed the site-specific training for participation in the TCT program.

*c.* The date on which the certified pharmacy technician was authorized to participate in the TCT program and the specific TCT program functions and tasks the certified pharmacy technician is authorized to perform.

*d.* If the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, the date on which the checking technician completed the specialized and advanced training as provided in policies and procedures.

*e.* The dates and results of all competency evaluations.

*f.* The dates of and reasons for any suspension or revocation of the certified pharmacy technician's TCT program authorization, identification of corrective action or retraining completed, and the date of the subsequent reinstatement of the certified pharmacy technician's TCT program authorization.

*g.* The dates of and reasons for any disciplinary action taken against the certified pharmacy technician in connection with the certified pharmacy technician's performance of duties relating to the TCT program.

**40.4(5) *TCT program evaluation.*** The pharmacist in charge shall maintain in the pharmacy department program evaluation records that demonstrate the redirection of pharmacist activities from distributive tasks to cognitive and patient care activities. The approximate amount of time each pharmacist spent on specific distributive tasks and on specific cognitive and patient care activities prior to implementation of the TCT program shall be documented in the program evaluation records and shall be maintained for the duration of the TCT program. Program evaluation records shall identify the specific cognitive and patient care activities and a summary of the approximate amount of time pharmacists spend on those activities as a result of implementation of the TCT program. TCT program evaluation records shall be updated at least semiannually and shall be available for inspection and



copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

[**ARC 9783B**, IAB 10/5/11, effective 11/9/11]

These rules are intended to implement Iowa Code sections 147.107, 155A.6A, and 155A.33.

[Filed ARC 9783B (Notice ARC 9557B, IAB 6/15/11), IAB 10/5/11, effective 11/9/11]



CHAPTERS 41 to 99  
Reserved



CHAPTER 201  
GENERAL FIRE SAFETY REQUIREMENTS

**661—201.1(100) Scope.** The provisions of this chapter apply to all buildings, structures and facilities that are subject to the jurisdiction of the state fire marshal unless the building, structure, or facility is subject to the provisions of 661—Chapter 202, 661—Chapter 205, 661—Chapter 221, or 661—Chapter 231.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

**661—201.2(100) General provisions.** The following publications or indicated portions thereof are hereby adopted by reference as general fire safety requirements and shall apply to all occupancies other than those to which provisions specific to an occupancy explicitly exclude these provisions or any individual provision contained therein.

**201.2(1)** International Fire Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

*a.* Delete section 103 and sections contained therein, section 104 and sections contained therein, section 105 and sections contained therein, section 106 and sections contained therein, section 107 and sections contained therein, section 108 and sections contained therein, section 109 and sections contained therein, section 110 and sections contained therein, section 111 and sections contained therein, section 112, and section 113 and sections contained therein.

*b.* Delete section 301.2.

*c.* Delete section 307.2.

*d.* Delete section 307.3 and insert in lieu thereof the following new section:

**307.3 Extinguishment Authority.** The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

*e.* Delete section 308.1.4 and insert in lieu thereof the following new section:

**308.1.4 Open Flame Cooking Devices.** Charcoal burners and ash- or coal-producing devices shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.

2. LP-gas burners connected to one (1) 20-pound LP-gas container.

3. Where buildings, balconies and decks are protected by an automatic sprinkler system.

*f.* Delete section 315.2.3 and insert in lieu thereof the following new section:

**315.2.3 Equipment Rooms.** Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms.

Exception: In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical or electrical equipment in the room.

*g.* Delete section 405.2 and table 405.2 and insert in lieu thereof the following new section and new table:

**405.2 Frequency.** Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

**TABLE 405.2**  
**FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION**

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B <sup>(c)</sup>	Annually	Employees
Group E	See (a) below	All occupants
Group I	Quarterly on each shift	Employees
Group I <sup>(b)</sup> and Group R-4 (assisted living facilities)	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2 <sup>(d)</sup>	Four annually	All occupants
High-rise	Annually	Employees

Footnotes:

(a) The frequency shall be allowed to be modified in accordance with Section 408.3.2. Fire and severe weather drills shall be conducted in accordance with Iowa Code chapter 100.

(b) Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Drills shall be conducted not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

(c) Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

(d) Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

*h.* Delete section 609.1 and insert in lieu thereof the following new section:

**609.1 General.** Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition.

*i.* Delete section 807.4.3.1 and insert in lieu thereof the following new section:

**807.4.3.1 Storage in corridors and lobbies.** Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. Storage in metal lockers, provided the minimum required egress width is maintained.

*j.* Delete section 906.1 and insert in lieu thereof the following new section:

**906.1 Where Required.** Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet (9144 mm) of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms.

*k.* Add the following new paragraph to section 907.2.2:

4. The Group B fire area that contains an educational occupancy for students above the twelfth grade with an occupant load of greater than 50 persons.

*l.* Delete section 907.2.3 and insert in lieu thereof the following new section:

**907.2.3 Group E.** In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

- 2.1. Interior corridors are protected by smoke detectors with alarm verification.
- 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
- 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
- 2.4. Off-premises monitoring is provided.
- 2.5. The capability to activate the evacuation signal from a central point is provided.
- 2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

*m.* Add the following new section 1003.8:

**1003.8 Location of Preschool through Second Grade Students.** In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

*n.* Delete section 1028.1.1 and insert in lieu thereof the following new section:

**1028.1.1** Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

- (1) Delete section 105.2 and insert in lieu thereof the following new section:

**105.2 Yearly inspection required.** The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

- (2) Delete section 501.2 and insert in lieu thereof the following new section:

**501.2 Inspections.** All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding

and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

- o.* Amend any reference to any section within chapter 22 to read as a reference to "Chapter 22."
- p.* Delete chapter 22 and insert in lieu thereof the following new chapter:

CHAPTER 22  
MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES  
**SECTION 2201**  
**GENERAL**

**2201.1** Motor fuel-dispensing facilities and repair garages shall comply with the applicable provisions of 661—Chapter 221.

- q.* Amend any reference to any section within chapter 34 to read as a reference to "Chapter 34."
- r.* Delete chapter 34 and insert in lieu thereof the following new chapter:

CHAPTER 34  
FLAMMABLE AND COMBUSTIBLE LIQUIDS  
**SECTION 3401**  
**GENERAL**

**3401.1** Transportation, storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of 661—Chapter 221.

- s.* Amend any reference to any section within chapter 38 to read as a reference to "Chapter 38."
- t.* Delete chapter 38 and insert in lieu thereof the following new chapter:

CHAPTER 38  
LIQUEFIED PETROLEUM GASES  
**SECTION 3801**  
**GENERAL**

**3801.1** Transportation, storage, handling, and use of liquefied petroleum gases shall comply with the applicable provisions of 661—Chapter 226.

- u.* Delete section 4603.6.1 and insert in lieu thereof the following new section:

**4603.6.1** Existing Group E occupancies shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. Where smoke or heat detectors are installed, such detectors shall be connected to the building fire alarm system.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet from another building.

2. Group E occupancy with an occupant load of less than 50.

- v.* Any reference to NFPA 10 is amended to read as follows:

NFPA 10 with the following amendment:

Delete sections 7.1.2.1, 7.1.2.2, and 7.1.2.3 and insert in lieu thereof the following new sections:

7.1.2.1 A trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual shall service the fire extinguishers not more than one year apart, as outlined in Section 7.3.

7.1.2.2\* Maintenance, servicing, and recharging shall be performed by trained persons who have available the appropriate servicing manual(s), the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts specifically listed for use in the fire extinguisher.

NOTE: Requirements in NFPA 10 for certification of personnel who maintain portable fire extinguishers are removed. These personnel must still be trained and have available service manuals.

- w.* Adopt Appendices B, C, and D.

**201.2(2)** The following Chapters and Sections of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.



- a. Chapter 2.
- b. Chapter 3.
- c. Chapter 4.
- d. Chapter 5.
- e. Chapter 6.
- f. Chapter 7.
- g. Sections 804 and 805.

[ARC 8307B, IAB 11/18/09, effective 1/1/10; ARC 9769B, IAB 10/5/11, effective 12/1/11]

**661—201.3(100) Electrical installations.** Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2008 edition, with the following amendment:

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

(3) Outdoors.

Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.

(4) Crawl spaces—at or below grade level.

(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 1 to (5): Receptacles that are not readily accessible.

Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.

(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.

(8) Boathouses.

**661—201.4(100) Existing buildings or structures.** Additions or alterations to any building or structure shall comply with the requirements of this chapter for new construction. Additions or alterations shall not be made to an existing building or structure that will cause the existing building or structure to be in violation of any provisions of 661—Chapter 201. An existing building plus additions shall comply with the height and area provisions of Chapter 5 of the International Building Code, 2009 edition. Portions of the structure not altered and not affected by the alteration are not required to comply with the requirements established in 661—Chapter 201 for a new structure.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

**661—201.5(100) Recognition of local fire ordinances and enforcement.** With the exception of a health care facility subject to the requirements of 661—Chapter 205, a building, structure, or facility shall be deemed to be in compliance with the requirements established in rules of the fire marshal if all of the following conditions are met:

1. The building, structure, or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference any edition of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; any edition of NFPA 1, Uniform Fire Code, published by the National Fire Protection Association; or the Uniform Fire Code, 1997 edition, published by the Western Fire Chiefs Association.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building, structure, or facility is subject to regular fire safety inspections.

4. The local jurisdiction has verified, during its most recent inspection, including any follow-up inspections, that the building, structure, or facility is in compliance with the local fire ordinance.

Notwithstanding any conflicting provisions contained in any code adopted by reference in this chapter or by any local fire ordinance, compliance with the provisions of 661—Chapter 221 is required at any location or facility in which flammable or combustible liquids are stored, handled, or used, other than incidental use.

[ARC 8307B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 100.

[Filed 11/2/06, Notice 9/13/06—published 11/22/06, effective 1/1/07]

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 8307B (Notice ARC 8156B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]

[Filed ARC 9769B (Notice ARC 9561B, IAB 6/15/11), IAB 10/5/11, effective 12/1/11]

CHAPTER 301  
STATE BUILDING CODE—GENERAL PROVISIONS  
[Prior to 12/21/05, see rules 661—16.1(103A) to 661—16.500(103A)]

**661—301.1(103A) Scope and applicability.** The provisions of this chapter apply generally to:

1. Buildings and facilities owned by the state of Iowa;
2. The initial construction of any building or facility not wholly owned by the state of Iowa or any department or agency of the state of Iowa which is financed in whole or in part with funds appropriated by the state, if there is no local building code in effect in the jurisdiction in which the construction is located or if there is a local building code in effect in the jurisdiction, and the local building code is not enforced through a system of plan reviews and inspections;
3. Buildings and facilities subject to the state building code, pursuant to a provision of state or federal law other than Iowa Code chapter 103A; and
4. Buildings and facilities in local jurisdictions which have adopted the state building code by local ordinance in accordance with the provisions of Iowa Code section 103A.12.

**661—301.2(103A) Definitions.** The following definitions apply to 661—Chapters 300, 301, 302, and 303.

*“Appropriated by the state of Iowa”* means funds which are included in a bill enacted by the Iowa general assembly and signed by the governor or which are appropriated in a provision of the Iowa Code.

*“Board of appeals”* means the local board of appeals as created by local ordinance.

*“Board of review”* or *“board”* means the state building code board of review created by Iowa Code section 103A.15. The three members of the board of review are appointed by the building code commissioner from among the membership of the building code advisory council.

*“Building”* means a combination of materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The word “building” includes any part of a building unless the context clearly requires a different meaning. This definition does not apply to 661—Chapter 302.

*“Building code advisory council”* or *“council”* means the seven-member council appointed by the governor, pursuant to Iowa Code section 103A.14, to advise and confer with the commissioner on matters relating to the state building code and to approve provisions of the state building code adopted by the commissioner.

*“Building component”* means any part, subsystem, subassembly, or other system designed for use in, or as a part of, a structure, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

*“Building department”* means an agency of any governmental subdivision charged with the administration, supervision, or enforcement of building regulations, prescribed or required by state or local building regulations.

*“Building system”* means plans, specifications and documentation for a system of manufactured factory-built structures or buildings or for a type or a system of building components, including but not limited to: structural, electrical, mechanical, fire protection, or plumbing systems, and including such variations thereof as are specifically permitted by regulation, and which variations are submitted as part of the building system or amendment thereof.

*“Bureau”* means the building code bureau of the fire marshal division of the department of public safety.

*“Commissioner”* means the state building code commissioner appointed by the commissioner of public safety pursuant to Iowa Code section 103A.4.

*“Construction”* means the construction, erection, reconstruction, alteration, conversion, repair, equipping of buildings, structures or facilities, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

*“Construction cost”* means the total cost of the work to the owner of all elements of the project designed or specified by the design professional including the cost at current market rates of labor and materials furnished by the owner and equipment designed, specified or specifically provided by the design professional. Construction costs shall include the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for each construction manager’s or contractor’s overhead and profit.

*“Division”* means the fire marshal division of the department of public safety.

*“Enforcement authority”* means any state agency or political subdivision of the state that has the authority to enforce the state building code.

*“Equipment”* means plumbing, heating, electrical, ventilating, conditioning, refrigeration equipment, and other mechanical facilities or installations.

*“Governmental subdivision”* means any state, city, town, county or combination thereof.

*“Label”* means an approved device affixed to a factory- built structure or building, or building component, by an approved agency, evidencing code compliance.

*“Listing agency”* means an agency approved by the commissioner which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed models, and which makes available timely reports of such listing including specific information verifying that the product has been tested to approved standards and found acceptable for use in a specified manner.

*“Responsible design professional”* means a registered architect or licensed professional engineer who stamps and signs the documents submitted, pursuant to Iowa Code chapters 542B and 544A.

*“State fire code”* means administrative rules adopted by the state fire marshal, pursuant to Iowa Code section 100.1, subsection 5.

*“State plumbing code”* means the state plumbing code adopted by the state plumbing and mechanical systems board, pursuant to Iowa Code chapter 105.

NOTE: As of January 1, 2007, the state plumbing code is found in 641—Chapter 25.

*“Structure”* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution equipment of public utilities. “Structure” includes any part of a structure unless the context clearly requires a different meaning.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

**661—301.3(103A) General provisions.** The provisions of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

**301.3(1)** Delete section 101.1.

**301.3(2)** Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

**301.3(3)** Delete section 101.4 and sections therein.

**301.3(4)** Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

**301.3(5)** Delete sections 103, 104, 105 and sections therein.

**301.3(6)** Delete section 106.2.

**301.3(7)** Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

**301.3(8)** Delete sections 107.3, 107.4, and 107.5 and sections therein.

**301.3(9)** Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

**301.3(10)** Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the International Fire Code.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

**301.3(11)** Delete section 907.2.2 and insert in lieu thereof the following new section:

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The Group B fire area contains a Group B ambulatory health care facility.
4. The Group B fire area contains an educational occupancy for students above the twelfth grade with an occupant load of 50 or more persons.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

**301.3(12)** Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
  - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
  - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
  - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
  - 2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

**301.3(13)** Add the following new section 1003.8:

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

**301.3(14)** Delete section 1028.1.1 and insert in lieu thereof the following new section:

1028.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

*a.* Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

*b.* Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

**301.3(15)** Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

**301.3(16)** Delete chapter 29.

**301.3(17)** Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

**301.3(18)** Amend section 3401.3 by deleting “International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

**301.3(19)** Delete appendices A through K.

**301.3(20)** Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

**301.3(21)** Delete all references to the “ICC Electrical Code” and insert in lieu thereof “rule 661—301.5(103A).”

**301.3(22)** Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

**301.3(23)** *Hospitals and health care facilities.*

*a.* A hospital, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital is in compliance with the provisions of rule 661—205.5(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the hospital shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

*b.* A nursing facility or hospice, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility or hospice is in compliance with the provisions of rule 661—205.10(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the nursing facility or hospice shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

*c.* An intermediate care facility for the mentally retarded, as defined in rule 661—205.1(100), or intermediate care facility for persons with mental illness that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the intermediate care facility is in compliance with the provisions of rule 661—205.15(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the intermediate care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

*d.* An ambulatory health care facility, as defined in rule 661—205.1(100), that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the ambulatory health care facility is in compliance with the provisions of rule 661—205.20(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the ambulatory health care facility shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

*e.* A religious nonmedical health care institution that is required to meet the provisions of the state building code shall be deemed to be in compliance with the provisions of the state building code if the institution is in compliance with the provisions of rule 661—205.25(100). In any other case in which an applicable requirement of the Life Safety Code, 2000 edition, is inconsistent with an applicable requirement of the state building code, the religious nonmedical health care institution shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement is met.

[ARC 8305B, IAB 11/18/09, effective 1/1/10; ARC 9770B, IAB 10/5/11, effective 12/1/11]

**661—301.4(103A) Mechanical requirements.** The provisions of the International Mechanical Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

Delete section 101.1.

Delete sections 103, 104, 105, 106, 107, 108, 109, and 110 and sections therein.

Delete section 403 and insert in lieu thereof the following new section:

#### SECTION 403

##### MECHANICAL VENTILATION

Mechanical ventilation systems shall be designed in accordance with the provisions of ASHRAE Standard 62.1-2007, "Ventilation for Acceptable Indoor Air Quality," published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta, GA 30329.

Delete appendices A and B.

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "ICC Electrical Code" and insert in lieu thereof "National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A)."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

**661—301.5(103A) Electrical requirements.** The provisions of the National Electrical Code, 2008 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, with the following amendment:

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

(3) Outdoors.

Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.

(4) Crawl spaces—at or below grade level.

(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 1 to (5): Receptacles that are not readily accessible.

Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.

(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.

(8) Boathouses.



**661—301.6(103A) Plumbing requirements.** Provisions of the state plumbing code, 641—Chapter 25, adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105, apply to plumbing installations in this state.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) "e."

Private sewage disposal systems shall comply with 567—Chapter 69.

**301.6(1)** Rescinded IAB 7/27/11, effective 7/8/11.

**301.6(2)** Fuel gas piping shall comply with the requirements established in rule 661—301.9(103A).  
[ARC 8305B, IAB 11/18/09, effective 1/1/10; ARC 9627B, IAB 7/27/11, effective 7/8/11]

**661—301.7(103A) Existing buildings.**

**301.7(1) Definition.** "Existing building" means a building erected prior to January 1, 2010.

**301.7(2) Adoption.** The provisions of the International Existing Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for repair, alteration, change of occupancy, addition, and relocation of existing buildings, with the following amendments:

Delete section 101.1.

Delete section 101.4.2 and insert in lieu thereof the following new section:

101.4.2 Buildings Previously Occupied. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete section 101.5.4.

Delete section 101.5.4.1.

Delete section 101.5.4.2.

Delete section 101.7.

Delete sections 103, 104, and 105 and sections therein.

Delete sections 106.1, 106.3.1, 106.3.3, 106.5, and 106.6.

Delete sections 108, 109, 110, 112, 113, 114, 115, 116 and 117 and sections therein.

Delete section 605.

Delete section 706.

Delete section 806.

Delete section 912.8.

Delete chapters A1 through A5.

Delete appendix B and insert in lieu thereof the following new section:

Any building or facility subject to this rule shall comply with the provisions of 661—Chapter 302.

Delete resource A.

Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."

Delete all references to the "ICC Electrical Code" and insert in lieu thereof "National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A)."

Delete all references to the "International Fuel Gas Code" and insert in lieu thereof "rule 661—301.9(103A)."

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

**661—301.8(103A) Residential construction requirements.** The provisions of the International Residential Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the requirements for construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family

dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures, with the following amendments:

Delete section R101.1.

Delete sections R103 to R114 and sections therein.

NOTE: The values for table R301.2(1) shall be determined by the location of the project and referenced footnotes from table R301.2(1).

Delete chapter 11.

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete section R310.1 and insert in lieu thereof the following new section:

R310.1 Emergency escape and rescue required. Basements and every sleeping room shall have at least one operable emergency and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Where emergency escape and rescue openings are provided they shall have a sill height of not more than 44 inches (1118 mm) above an adjacent permanent interior standing surface. The adjacent permanent interior standing surface shall be no less than 36 inches wide and 18 inches deep and no more than 24 inches high. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with section R310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTION: Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m<sup>2</sup>).

Delete section R313.1.

NOTE: Deletion of section R313.1, which would have required the installation of sprinklers in newly constructed townhouses, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Delete section R313.2.

NOTE: Deletion of section R313.2, which would have required the installation of sprinklers in newly constructed one- and two-family residences, is consistent with 2010 Iowa Acts, Senate Joint Resolution 2009.

Amend section R322.1.7 by striking the words “Chapter 3 of the International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete section R907.3 and insert in lieu thereof the following new section:

R907.3 Recovering versus replacement. New roof coverings shall not be installed without first removing all existing layers of roof coverings where any of the following conditions exist:

1. Where the existing roof or roof covering is water-soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.
2. Where the existing roof covering is wood shake, slate, clay, cement or asbestos cement tile.
3. Where the existing roof has two or more applications of any type of roof covering.

Delete chapter 24 and sections therein and insert in lieu thereof the following new section:

All fuel gas piping installations shall comply with rule 661—301.9(103A).

Delete chapters 25 to 33 and sections therein, except for section P2904, and insert in lieu thereof the following new section:

All plumbing installations shall comply with the state plumbing code as adopted by the state plumbing and mechanical systems board pursuant to Iowa Code chapter 105.

EXCEPTION: Factory-built structures, as referenced by Iowa Code section 103A.10(3), that contain plumbing installations are allowed to comply with either the state plumbing code or with the International Plumbing Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite

600, Falls Church, VA 22041. The manufacturer's data plate must indicate which plumbing code was utilized for compliance with this rule, as required by 661—paragraph 16.610(15) "e."

Delete chapters 34 to 43 and sections therein and insert in lieu thereof the following new section:

All electrical installations shall comply with National Electrical Code, 2008 edition, as amended by rule 661—301.5(103A).

Delete appendices A through Q.

[ARC 8305B, IAB 11/18/09, effective 1/1/10 (See Delay note at end of chapter); ARC 8771B, IAB 5/19/10, effective 5/1/10]

**661—301.9(103A) Fuel gas piping requirements.** Fuel gas piping shall comply with the requirements of 661—Chapter 221. Liquefied petroleum gas facilities and appliances shall comply with rule 661—226.1(101).

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

**661—301.10(103A) Transition period.** A construction project that is subject to the provisions of any rule in 661—Chapter 301 or 661—Chapter 303 which requires compliance with provisions of the 2009 edition of any code published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, may comply with the requirements established either in the edition of the code adopted herein or the requirements established in the edition of the same code previously in effect if the project is commenced no later than March 31, 2010. "Commenced" shall mean that the submitter has obtained preliminary approval from the commissioner or a local building department pursuant to rule 661—300.6(103A) prior to April 1, 2010. If final approval for the project design has not been obtained prior to October 1, 2010, the project is subject to the provisions of 661—Chapters 301 and 303 in effect as of January 1, 2010.

[ARC 8305B, IAB 11/18/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 103A.

[Filed 12/2/05, Notice 9/14/05—published 12/21/05, effective 4/1/06]

[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 1/1/07]

[Filed 10/31/07, Notice 9/12/07—published 11/21/07, effective 1/1/08]

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 8305B (Notice ARC 8179B, IAB 9/23/09), IAB 11/18/09, effective 1/1/10]<sup>1</sup>

[Editorial change: IAC Supplement 12/30/09]

[Filed Emergency ARC 8771B, IAB 5/19/10, effective 5/1/10]

[Filed Emergency ARC 9627B, IAB 7/27/11, effective 7/8/11]

[Filed ARC 9770B (Notice ARC 9562B, IAB 6/15/11), IAB 10/5/11, effective 12/1/11]

<sup>1</sup> January 1, 2010, effective date of the portions of 661—301.8(103A) pertaining to Sections R313.1 and R313.2 delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009.



## CHAPTER 22 VOTING SYSTEMS

[Prior to 7/13/88, see Secretary of State[750] Ch 10]

### TESTING AND EXAMINATION OF VOTING EQUIPMENT

#### **721—22.1(52) Definitions for certification of voting equipment.**

*“Accredited independent test authority”* means a person or agency that was formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software. “Accredited independent test authority” also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.

*“Audio ballot”* means the presentation of the contents of a ballot on an electronic ballot marking device in a recorded format, played to the voter over headphones.

*“Automatic tabulating equipment”* means apparatus that are utilized to ascertain the manner in which optical scan ballots have been marked by voters or by electronic ballot marking devices and to count the votes marked on the ballots.

*“Ballot”* means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more paper ballots. The term includes optical scan paper ballots designed to be read by automatic tabulating equipment. In appropriate contexts, “ballot” also includes conventional paper ballots.

*“Ballot marking device”* means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking an optical scan ballot, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

*“Certification”* means formal approval of an optical scan voting system for use in Iowa pursuant to Iowa Code sections 52.5 and 52.26.

*“De minimis change”* means a change to a certified voting system’s hardware, the nature of which will not materially alter the system’s reliability, functionality, capability, security and operation. In order for a change to qualify as a de minimis change, it must not alter the reliability, functionality, capability, security and operability of the system. A de minimis change shall also ensure that when the hardware is replaced, the original hardware and the replacement hardware are electronically and mechanically interchangeable and have identical functionality and tolerances. A change shall not be considered de minimis if it has reasonable and identifiable potential to affect the system’s operation and compliance with applicable voting system standards.

*“Early voting”* means the process of receiving ballots from voters before election day without using absentee voting procedures. Iowa law does not authorize this process.

*“Electronic ballot marking device”* means a component of an optical scan voting system designed to assist voters with disabilities by displaying audio and visual ballot information to the voter, providing accessible methods for the voter to make selections, and then printing the voter’s choices on an optical scan ballot.

*“Electronic transmission”* means using hardware and software components to send data over distances both within and external to the polling place and to receive an accurate copy of the transmission.

*“Examiners”* means the board of examiners for voting systems described in Iowa Code section 52.4.

*“Modification”* means a change to a certified voting system’s software or firmware. Modification also means a change to a certified voting system’s hardware that has the potential to affect the reliability, functionality, capability, security or operability of a system.

*“Optical scan ballot”* means a printed ballot designed to be marked by a voter with a ballot marking device and to be counted by use of automatic tabulating equipment.

*“Optical scan voting system”* means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

*“Program”* means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

*“Qualification test”* means the examination and testing of a voting system by an independent test authority using the voting system standards required by Iowa Code section 52.5 and rule 721—22.2(52) to determine whether the system complies with those standards.

*“Vendor”* means a person or representative of a person owning or being interested in an optical scan voting system and seeking certification of the equipment for use in elections in Iowa.

*“Voting booth”* means an enclosure designed to be used by a voter while marking a conventional paper ballot, optical scan ballot or ballot card.

*“Voting equipment”* means an optical scan voting system which is required by Iowa Code sections 52.5 and 52.26 to be approved for use by the examiners.

*“Voting system”* means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). “Voting system” also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

[ARC 8244B, IAB 10/21/09, effective 10/2/09; ARC 9468B, IAB 4/20/11, effective 5/25/11]

**721—22.2(52) Voting system standards.** All electronic voting systems approved for use by the board of examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002, or the 2005 Voluntary Voting Systems Guidelines, as adopted by the U.S. Election Assistance Commission in December 2005. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

[ARC 9468B, IAB 4/20/11, effective 5/25/11; ARC 9762B, IAB 10/5/11, effective 9/8/11]

**721—22.3(52) Examiners.** The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

**22.3(1)** Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

**22.3(2)** Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

**22.3(3)** Correspondence and materials required to be filed with the board of examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

**721—22.4(52) Fees and expenses paid to the examiners.**

**22.4(1)** The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

*a.* If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners’ expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

b. If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

**22.4(2)** The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

a. For each meeting or series of meetings held for the purpose of certifying an optical scan voting system or component thereof.

b. For each meeting or series of meetings for reconsideration of an optical scan voting system or component thereof after denial of certification.

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.  
[ARC 8244B, IAB 10/21/09, effective 10/2/09]

**721—22.5(52) Examination of voting equipment—application.** Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

**22.5(1)** History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

**22.5(2)** Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

**22.5(3)** Report of an accredited independent test authority certifying that the system is in compliance with the voting systems standards required by rule 721—22.2(52). Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, members of the board of examiners, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports, and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

**22.5(4)** Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

**22.5(5)** Reports of the certifying authorities of any other states that have examined the equipment, whether or not the equipment was approved for use.

**22.5(6)** Brochures, photographs and advertising material used to encourage sales of the equipment.

**22.5(7)** Manuals for the use and maintenance of any components of the equipment that are not manufactured by the vendor.

**22.5(8)** Rescinded IAB 4/20/11, effective 5/25/11.

**22.5(9)** Reserved.

**22.5(10)** The form prescribed by the state commissioner of elections to request examination and testing of voting systems.

[ARC 8244B, IAB 10/21/09, effective 10/2/09; ARC 9468B, IAB 4/20/11, effective 5/25/11]

**721—22.6(52) Review of application by examiners.** Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine

the equipment. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

**721—22.7(52) Consultant.** If the examiners determine that a consultant is necessary to determine whether a system meets the requirements of Iowa law or whether a change to a voting system is de minimis or a modification, the examiners shall notify the vendor of the decision. The vendor may suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

A consultant may be employed if no other state has certified the equipment for use. The examiners may require a consultant if the equipment has been modified following certification by other states, or if the examiners believe it to be necessary.

If a test authority has been determined to be necessary by the examiners and a suitable consultant cannot be agreed upon by the examiners and the vendor, the equipment shall not be approved for use.

[ARC 8244B, IAB 10/21/09, effective 10/2/09]

**721—22.8(52) Contact other users.** The examiners shall contact a representative sample of the users of the equipment to determine the nature of the experience of other users.

**721—22.9(52) Testing the equipment.** The vendor shall provide to the examiners one, or more, if deemed necessary by the examiners, production models of the equipment submitted for certification. The equipment shall be prepared by the examiners with the aid of the vendor to be tested at two sample elections: a sample partisan primary election, and a sample general election.

**22.9(1)** Test county for absentee voting. Voting equipment which is designed to be used for tabulation of absentee ballots shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. congressional district, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(2)** Test county for absentee systems. Voting equipment which is designed to be used for tabulation of absentee ballots only shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(3)** Test precinct for precinct count systems. The test precinct shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

**22.9(4)** All requirements for preparation and printing of test ballots shall be met in the preparation of ballots for the test elections including, but not limited to, rotation of candidates' names and the provision of space for write-in votes.

**22.9(5)** Test ballots provided by vendor. The vendor shall provide the ballots to be used in the testing of the equipment. A total of at least 2000 ballots shall be printed for each of the two test elections. One thousand ballots for each test election shall be marked and manually tabulated by the vendor to use as a test of the ability to tabulate results accurately. The balance of the ballots shall be delivered to the examiners before the date set for the examination. The examiners shall mark and manually tabulate an additional set of at least 300 test ballots.

**721—22.10(52) Test primary election for three political parties.**

**22.10(1) Closed primary election.** Voters may only cast votes for the candidates of one of the parties.

**22.10(2) Offices.** The following offices shall each have two candidates for each party. Candidate names shall be rotated as required by Iowa Code section 43.28.

- a. U.S. Senator
- b. U.S. Representative



- c. Governor
- d. Secretary of State
- e. Auditor of State
- f. Treasurer of State
- g. Secretary of Agriculture
- h. Attorney General
- i. State Senator
- j. State Representative
- k. County Supervisor (vote for no more than three of six candidates)
- l. County Treasurer
- m. County Recorder
- n. County Attorney
- o. and p. Rescinded IAB 8/1/07, effective 7/13/07.

**22.10(3) Write-in votes.** Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office.

**721—22.11(52) Test general election.** The ballots for the test general election shall include the following:

**22.11(1) Offices.** In the test general election all of the above offices shall be included with the addition of candidates for lieutenant governor to be voted for jointly with each candidate for governor. Each political party and nonparty political organization shall have one candidate for each office that appeared on the primary ballot, except county supervisor, which shall have three candidates for each party and nonparty political organization. Names of candidates for county supervisor shall be rotated as required by Iowa Code section 49.31, subsection 2.

The following nonpartisan offices shall also be included on the ballot with the heading “Nominated by Petition”:

- a. Township Trustee
- b. Township Clerk
- c. County Public Hospital Trustee
- d. Soil and Water Conservation District Commissioners
- e. Agricultural Extension Council

**22.11(2) Judicial ballot.** Portions of the judicial ballot may be printed separately if necessary.

- a. Supreme Court (five justices)
- b. Appeals (four judges)
- c. District Court (six judges)
- d. District Associate Judges (three judges)

**22.11(3) Public measures.**

- a. Constitutional Amendments (two)
- b. Local public measures (three)

**22.11(4) Straight party voting** for three political parties and five nonparty political organizations.

**22.11(5) Write-in votes.** Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office. This does not include judges standing for retention.

**721—22.12(52) Report of findings.** The examiners shall complete a report showing their findings. The report shall include a checklist containing all statutory requirements for voting systems and shall indicate whether each requirement applies to the voting system being examined and whether the voting system is compliant or not compliant. The checklist must indicate that all applicable items are compliant with statutory requirements in order for the examiners to find that the voting system may be approved for use.

**22.12(1) Approval permits use.** If the report states that the voting system has been approved for use, the voting system may be adopted for use at elections.

**22.12(2) Report filed with the secretary of state.** The report shall be filed with the secretary of state. The secretary of state shall retain the vendor's application and other documents submitted pertaining to the certification as long as the voting system remains certified.

**721—22.13(52) Notification.** The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

**721—22.14(52) Denial of certification.** If the examiners find that the equipment does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the equipment. The report of the board shall specify the reasons for the denial, as well as all areas in which the equipment complied with the requirements of the law. Certification may be denied for any of the following reasons:

**22.14(1)** The absence of any feature required by Iowa Code section 52.5 or 52.26.

**22.14(2)** Failure to pay the examiners' fees and expenses, or the fees of any consultant mutually agreed upon by the examiners and the vendor.

**22.14(3)** Failure to provide the examiners with a complete application as required by rule 721—22.5(52).

**22.14(4)** Failure of the equipment to produce accurate results in one or both of the test elections. The test groups of ballots shall be tabulated manually to determine the expected outcome of each test election. If the equipment fails to reproduce exactly the results of the manual tabulation, the system shall not be approved for use, unless it can be demonstrated that the manual tabulation was in error and the machine tabulation was accurate.

[ARC 9468B, IAB 4/20/11, effective 5/25/11]

**721—22.15(52) Application for reconsideration.** Following denial of certification a vendor may make the necessary modifications to the system and apply for reconsideration. Aspects of the equipment which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the equipment to comply in other areas. If certification was denied for the reasons cited in 22.14(1) or 22.14(4), both test elections must be completed satisfactorily, or approval shall not be granted.

**721—22.16(52) Appeal.** If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

**721—22.17(52) Changes to certified voting systems.** The procedures in this rule shall be followed anytime a change is made to a certified voting system, including a change in tabulation software, firmware, or hardware.

**22.17(1) Notification of change.** The vendor shall notify the examiners of any changes in a certified voting system. The vendor shall provide the examiners with the following information at the time the vendor provides notice of the change(s):

*a.* A description of the changes made.

*b.* Reports of test results conducted by an accredited independent test authority, and any reports of test results conducted by or for other states following the changes to the voting system.

*c.* Copies of manuals, instructions, advertisements and other documents submitted with the voting system's original application for certification that have been updated since the original application was submitted.

*d.* An assessment from an accredited independent test authority of the change as either a de minimis change or a modification to the voting system.

**22.17(2) Commencing review proceedings.** Within seven days of receiving a voting system change notice from a vendor, the examiners shall commence review proceedings to independently determine

whether the change submitted by the vendor is a de minimis change or a modification to the voting system. In making this independent determination, the examiners may use any means available, including hiring a consultant pursuant to rule 721—22.7(52).

**22.17(3) *De minimis changes.*** If the examiners determine a change to a voting system is de minimis, the examiners may approve the changes by motion and certify the changed voting system for use in the state.

**22.17(4) *Modifications to voting systems.*** If the examiners determine a change to a voting system is a modification to the voting system, the examiners shall require the vendor to submit a new application for certification and testing of the voting system pursuant to rules 721—22.5(52) to 721—22.11(52).  
[ARC 8244B, IAB 10/21/09, effective 10/2/09]

**721—22.18(52) Rescinding certification.**

**22.18(1) *Grounds for rescinding certification.*** Certification may be rescinded if it is found that:

- a. The equipment does not produce accurate results and reports as required for an election.
- b. Modifications have been made in a certified voting system that have not been approved by the examiners.
- c. Equipment which has been certified for use has not been adopted by any county in Iowa, or is no longer used by any county in Iowa, and is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting equipment without a complaint or contested case proceedings.
- d. Equipment that has been certified for use no longer complies with the requirements of Iowa law.
- e. Any other grounds that may materially affect delivery or performance of the equipment.

**22.18(2) *Procedure for rescinding certification.*** Complaints regarding voting equipment certified for use in Iowa shall be filed with the secretary of state. The examiners shall review all complaints and may initiate a contested case to rescind certification on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding certification shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

**22.18(3) *Suspension of certification.*** If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting equipment can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the equipment, the suspension may be limited to the deficient models. While certification is suspended, the equipment may not be used for any election.

After the required modifications have been made the vendor may apply for reexamination of the equipment following the procedure described in rule 721—22.17(52).

**22.18(4) *Further use prohibited.*** If certification of voting equipment is rescinded without qualification, no further use shall be permitted by any county.

[ARC 8244B, IAB 10/21/09, effective 10/2/09]

These rules are intended to implement Iowa Code sections 17A.12, 21.4, 21.5, 52.4, 52.5, 52.6, 52.7, 52.26, and 70A.9.

**721—22.19(52) Examination of voting booths—application.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.20(52) Review of application by examiners.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.21(52) Contact other users.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.22(52) Criteria for approval.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.23(52) Report.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.24(52) Notification.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.25(52) Denial of certification.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.26(52) Application for reconsideration.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.27(52) Appeal.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.28(52) Reexamination following changes in voting booth.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.29(52) Rescinding certification.** Rescinded IAB 10/21/09, effective 10/2/09.

**721—22.30(50,52) Electronic transmission of election results.**

**22.30(1) Certification of equipment.** On or after December 17, 2003, new components for transmission of election results by any electronic means may be used in elections in Iowa only if the components are approved by the board of examiners for use with a certified voting system. Existing systems containing electronic transmission components in use before December 17, 2003, may continue to be used until January 1, 2006, when the Help America Vote Act voting system requirements become effective.

The examiners shall review the qualification test report submitted with the application for examination and testing of the voting system. If the test report for the voting system under examination shows that the electronic transmission components have met the voting system standards and the examiners concur, the electronic transmission components may be used in conjunction with the voting system. If the qualification test report or the examiners conclude that the electronic transmission components do not meet the voting system standards, or if this feature is not mentioned in the report, purchasers of the voting system may not transmit election results electronically.

**22.30(2) Procedures on election day.** The election results may be transmitted electronically from voting equipment to the county commissioner of elections' office only after the precinct election officials have produced a written report of the election results as required by Iowa Code section 50.11. All election officials of the precinct shall sign the printed report of the election results. The signed copy shall be the official tabulation from that precinct.

**22.30(3) Procedures after election day.** Before the canvass by the board of supervisors, the county commissioner of elections shall compare the signed, printed report from each precinct with the results transmitted electronically from the precinct on election night. The commissioner shall report any discrepancies between the two sets of election results to the board of supervisors. The signed, printed results produced pursuant to Iowa Code section 50.11 shall be considered the correct results.

This rule is intended to implement Iowa Code sections 50.11 and 52.41.

**721—22.31(52) Acceptance testing.** When the commissioner receives voting equipment from a vendor, the commissioner shall carefully examine and test the equipment to:

**22.31(1)** Verify that the system delivered is certified for use in Iowa. The commissioner shall compare the voting system version numbers with the list of certified voting equipment provided by the state commissioner;

**22.31(2)** Verify that everything in the contract has been delivered by:

- a. Comparing a copy of the purchase contract with the items received;
- b. Making certain that all components, such as power cords, casters, and keys, are included;
- c. Reviewing instruction and maintenance manuals to be sure that the correct version of each manual was provided; and

**22.31(3)** Verify that everything delivered actually works. The commissioner shall run a simulated election to confirm that each part of the system and the system as a whole function properly.

**721—22.32(52) Optical scan voting system purchase program.** Rescinded IAB 4/20/11, effective 5/25/11.

**721—22.33 to 22.38** Reserved.

**721—22.39(52) Public testing for direct recording electronic voting machines.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.40(52) Public testing of lever voting machines.** Rescinded IAB 8/1/07, effective 7/13/07.

**721—22.41(52) Public testing of optical scan systems.** All automatic tabulating equipment (including equipment used to tabulate absentee ballots) shall be tested before use at any election, as required by Iowa Code section 52.35. The process and results of the test shall be documented and available for inspection.

**22.41(1)** Each automatic tabulating device (including equipment that will be used for counting absentee ballots) shall be tested to determine the following:

*a.* The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

*b.* Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

*c.* The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan.

*d.* The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled, and the write-in votes are tallied correctly.

*e.* For primary elections, the tabulating equipment accurately records votes cast for all political parties.

*f.* For general elections:

(1) A ballot marked with only a straight party vote is recorded with one vote for each candidate of the designated political party, and no other votes are recorded for partisan offices;

(2) The voter may override a straight party vote for any office by voting for any candidate not associated with that political party; and

(3) For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive a vote.

**22.41(2)** Conducting the test.

*a.* The commissioner shall follow the process described in rule 721—22.42(52) for preparing test decks.

*b.* If, during the test, there are differences between the test plan and the results produced by the optical scan device, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the faulty program or equipment shall not be used in the election.

*c.* The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

**721—22.42(52) Preparing test decks.** The commissioner shall prepare test decks from all ballots printed for use in the election, including those for use at the polling places and for absentee balloting. Each of the following test decks shall be prepared for every precinct and ballot style in the election. Commissioners may use additional test methods to supplement the process described in this rule.

**22.42(1)** *Requirements for all test decks prepared by the commissioner and used in public testing.* The commissioner shall:

*a.* Replace ballots spoiled during the marking process instead of attempting to correct errors.

*b.* Fill in each oval completely using the recommended pen, pencil or AutoMARK VAT.

*c.* Mark each ballot "Test Ballot."

**22.42(2) Required test method.** The commissioner shall:

- a. Prepare a test plan showing the planned number of votes, including undervotes and overvotes for each oval on the ballot. Follow the instructions in subrules 22.42(3) through 22.42(5) in preparing the test decks.
- b. Mark the test ballots according to the test plan.
- c. Print a zero totals report from the optical scan tabulator before inserting any ballots.
- d. Insert the ballots into the optical scan tabulator and print a report showing the number of votes recorded for all offices, questions and judges, including undervotes and overvotes.
- e. Compare the printed report with the test plan to ensure that the correct number of votes was counted for each oval.
- f. If the commissioner finds errors, the commissioner shall identify and correct them. The commissioner shall repeat the testing process until the printed results from the tabulator match the test plan. If the commissioner cannot produce an errorless test, the equipment shall not be used in the election.

**22.42(3) Systematic test deck.** The commissioner shall determine a unique number of votes for each candidate in each office, such as one vote for each write-in oval for the office, two votes for the first candidate listed (or “NO” votes on public measures and judges), three votes for the second candidate, etc. It is not necessary to have a different number of votes for each write-in oval for offices for which the voter may select more than one candidate. However, the write-in oval shall have a different number of votes marked than any candidate for the office. The commissioner shall:

- a. On general election ballots, leave the straight party choice blank.
- b. For offices without candidates, mark all of the write-in ovals for that office.
- c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed on at least one ballot.
- d. On a ballot that contains at least one valid vote, overvote one other office or question.

**22.42(4) System-specific testing requirements.** Separate tests are prescribed for each certified voting system.

a. *Election Systems & Software—overvote and blank ballot test.* For an overvote and blank ballot test, the commissioner shall:

(1) Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates’ names on the ballot.

(2) If the test is for ballots that will be used in a general election, mark two straight party votes on one ballot. Do not mark any other ovals. In the test plan, this ballot should be tallied to show that the straight party selection was overvoted, and to show undervotes for all other offices and questions on the ballot.

(3) When the overvoted ballots are rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate.

(4) Insert a blank ballot. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.

(5) Orientation test. Mark the maximum number of choices for each office and question on one ballot.

Scan this ballot in each of the four possible orientations:

- Face up, head first.
- Face down, head first.
- Face up, feet first.
- Face down, feet first.

b. *Premier Election Solutions.*

(1) Blank and fully voted test. The commissioner shall use two ballots for this test.

1. Leave one ballot completely blank.
2. On the second ballot, mark every oval on both sides of the ballot.

3. Select “Test Blank Ballots” and insert the blank ballot in all four orientations:
  - Face up, head first.
  - Face down, head first.
  - Face up, feet first.
  - Face down, feet first.
4. Select “Test Fully Voted Ballots” and insert the second ballot in each of the four orientations listed in numbered paragraph “3” above.
5. Reinsert the blank ballot and the fully voted ballot and override the rejection feature.
- (2) Overvote. Overvote all offices and questions (including judges) on one ballot, by marking one more vote than permitted. Do not mark the write-in ovals for any offices for which there are no candidates’ names on the ballot.

**22.42(5)** *Straight party test for general elections.* For a straight party test, the commissioner shall:

- a. For each set of ballots:
  - (1) Mark straight party votes in a pattern, such as one vote for the first straight party choice, two votes for the second, and so on, and tally the expected results. Do not mark anything else on this group of ballots.
  - (2) On a second set of ballots containing as many ballots as there are straight party choices, mark the straight party option and, for each office affected by the straight party vote, mark the write-in oval, and tally the expected results.
  - (3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with only a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.
- b. Compile the results of the straight party test deck.

**721—22.43(52) Conducting the public test.**

**22.43(1)** The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

- a. The correct program cartridge or memory card is in place for the election and the precinct or precincts in which it will be used.
- b. All counters are set at zero before the test is begun.

**22.43(2)** The commissioner shall conclude the test not later than 12 hours before the polls open on election day. Following the test, the tabulating equipment shall be inspected to determine that:

- a. All counters have been returned to zero.
- b. All required locks or seals are in place.
- c. The automatic tabulating equipment is ready for operation at the election.

The results tape from each scanner produced during the public test shall be signed by the person conducting the test and by any observers present at the test. The signers shall write their signatures at the end of the tape where it will be detached from the machine. The tape shall be torn or cut across the signatures, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester’s signature, shall be retained with the appropriate test deck for the period of time required by Iowa Code section 50.19.

**22.43(3)** Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

- a. Not more than ten ballots may be submitted by any person.
- b. Only official ballots provided by the commissioner at the test shall be used.
- c. The observer submitting the test shall provide a written tally of the test deck.
- d. The results of the machine tabulation shall be printed and compared with the observer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.
- e. The test decks, the tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

Rules 721—22.41(52) through 721—22.43(52) are intended to implement Iowa Code section 52.35.

**721—22.44 to 22.49** Reserved.

**721—22.50(52) Voting system security.** Each county shall have a written security policy. The policy shall include detailed plans to protect the election equipment and data from unauthorized access. The policy shall describe the methods to be used to preserve the integrity of the election and to document the election process.

**22.50(1) Staff access.** The security policy shall describe who shall have access to the voting equipment.

**22.50(2) Computers.** For security purposes, computers used in the commissioner's office to prepare ballots and voting equipment programs or to compile and report election results should not be used for any other function and should not be linked to any computer network or to the Internet.

*a.* If the election computers are linked to a network or to the Internet, the commissioner shall use a firewall to filter network traffic. Data transmissions over the Internet shall be encrypted and password-protected. Information posted to a Web site shall not be considered transmission of data over the Internet.

*b.* Access shall be limited to persons specified by the commissioner in the written security policy. The level of access shall be included in a written security policy.

(1) **Uniqueness.** Every ID and password shall be unique. The creation of generic or shared user IDs is specifically prohibited. Each user shall have exactly one user ID and password, except where job requirements necessitate the creation of multiple IDs to access different business functions.

(2) **Authority.** Each user shall be granted only the level of access specifically required by the user's job. Use of "Administrator," "Super User," "Security Administrator," or "SA" levels of authority shall be severely restricted.

(3) **Generic user IDs.** Staff members with generic user IDs are not allowed to sign on to voting systems.

(4) **Password standards.**

Account Policy	Recommended Setting
Maximum Password Age	90 days
Minimum Password Age	2 days
Minimum Password Length	8 characters
Enforced Password History	6 passwords (last 6 cannot be used)
Account Lockout (number of unsuccessful log-on attempts)	3 bad attempts
Account Lockout Duration	6 hours
Reset Account Lockout Counter After	6 hours

**22.50(3) Evacuation.** If it is necessary to evacuate the election office, a satellite absentee voting station or a polling place, the precinct election staff or the election officials shall immediately attempt to notify the commissioner and take the following actions:

*a.* Keep people safe.

*b.* If possible, gather and secure voted ballots, election equipment and critical election documents.

**721—22.51(52) Memory cards.** A memory card is a small, removable device containing data files of the election definition programmed for use in voting equipment for each election. For all voting equipment, the following security measures are required:

**22.51(1) Serial number.** Each memory card shall have a serial number printed on a readily visible label. The label shall include the name of the county.

**22.51(2) Inventory.** Memory cards owned by the county and retained in the custody of the county commissioner shall be maintained under perpetual inventory, with a record of inventory activity. The commissioner shall maintain a similar record of relevant actions if the memory cards are acquired from a vendor for each election. The record of inventory activity shall reflect:

*a.* The date each memory card was acquired;



- b. Each use of each memory card in an election;
- c. Each maintenance activity to a memory card, such as changing the battery;
- d. Any problems or errors detected while using the memory card during its life;
- e. Records of the disposal of any memory cards at the end of their useful life or upon return to the vendor for maintenance or warranty claims.

**22.51(3) Custody.**

a. In counties where the commissioner has the necessary software and equipment to program the memory cards locally, the commissioner shall maintain a memory card log for each election as required in subrule 22.51(4) during the period when the memory cards are removed from storage, prepared for an election, and until they are sealed into a voting device. Only county employees and precinct election officials, as applicable, authorized by the county's security policy shall be permitted to handle the memory cards. No one individual should be alone with the unsecured memory cards at any time. If a person who is not authorized by the security policy to have access to the memory cards transports them to another location, such as a warehouse, the memory cards shall be enclosed in a transport container with a tamper-evident seal.

*b.* In counties where the commissioner purchases programming services from a vendor, the memory cards shall be shipped to and from the vendor by a shipping service that employs tracking numbers. The memory cards shall be enclosed in a package sealed with a numbered, tamper-evident seal. Programmed memory cards shall be shipped in a package sealed with a numbered, tamper-evident seal from the vendor to the commissioner. If the seal is not intact upon arrival, the commissioner shall immediately contact the vendor for replacement cards. Only county employees authorized by the county's security policy (and precinct election officials, as applicable) shall be permitted to handle the memory cards. No one individual should be alone with the unsecured memory cards at any time.

**22.51(4) Memory card log.** For each election, the commissioner shall create a log to record the serial numbers of each memory card, the voting device into which the memory card was installed, the serial number of the seal, the ballot style and the precinct to which the machine is assigned. The log shall be in substantially the same form as Form A or Form B, as applicable:

## Form A

## State of Iowa

## Election Log: Memory Cards for \_\_\_\_\_ County

Use this form in counties where the memory cards are programmed locally.

**Memory card chain of custody record for:** \_\_\_\_\_ **Election to be held** \_\_\_\_ / \_\_\_\_ /20\_\_

[illegible]

[illegible]**Form B\***

State of Iowa

## Election Log: Memory Cards for \_\_\_\_\_ County

Use this form if a vendor programs the memory cards.

**Memory card chain of custody record for:** \_\_\_\_\_ **Election to be held** \_\_\_\_/\_\_\_\_/20\_\_\_\_

[illegible]

\*Form B continues on next page.

Form B (cont'd)

**Memory Card Shipping Record for \_\_\_\_\_ County****Shipped for programming:**

**Record each card number before packing to ship, and check out each card number on the chain of custody record. Enclose a photocopy of the Memory Card Record with the cards.**

Shipped by: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_:\_\_\_\_ a.m./p.m.  
Print name Signature

Shipped to: \_\_\_\_\_ Shipped via: \_\_\_\_\_  
 \_\_\_\_\_ Tracking number: \_\_\_\_\_  
 \_\_\_\_\_

**Instructions to vendor:**

**Check in each card number on the enclosed chain of custody record when unpacking cards.**

By: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time: \_\_\_\_:\_\_\_\_ a.m./p.m.  
Print name Signature

- If memory cards are removed from this inventory for any reason, make a notation of which card(s) on the Memory Card Record.
- Replacement card(s) if issued should be added to the bottom of the Memory Card Record as a new card. A serial number will be assigned later by the receiving county.

Shipped via: \_\_\_\_\_ Date: \_\_\_\_\_ Tracking number: \_\_\_\_\_

**Received by County Election Department on Date: \_\_\_\_/\_\_\_\_/\_\_\_\_**

Was the package sealed? \_\_\_\_\_ Was the seal intact? \_\_\_\_\_ Notes: \_\_\_\_\_

Keep the memory cards in secure storage after they are received and until they are installed in the voting equipment.

**22.51(5) *Preparation and installation.*** When memory cards are installed, they shall be sealed immediately into the machine using a numbered, tamper-evident seal. Appropriate log entries shall be completed.

**22.51(6) *Replacing seals or memory cards.*** If a seal is accidentally broken or a memory card is replaced for any reason, the issuance of a new seal and the entry into the log shall be witnessed by more than one person. The facts of the incident and the names of the individuals who detected and resolved it shall be recorded.

**22.51(7) *Opening the polls.*** Immediately before the polls open on election day, the precinct election officials shall turn on the voting equipment and print the report showing that all counters are set at zero.

**22.51(8) *Verification log.*** The commissioner shall provide to each precinct a precinct verification log with the ballot record and receipt. The verification log shall provide places for precinct election officials to record or check the following information before the polls open and again before leaving the polling place at the end of the day:

- Seal numbers from the voting equipment; and
- Condition of seals on ballot containers.

**22.51(9) Election day.**

- a. Before the polls are opened, the precinct election officials shall verify the required information in the verification log and sign the log.
- b. After the polls are closed, the precinct election officials shall verify the required information in the verification log and sign the log before leaving the polling place.
- c. If the precinct election officials remove the memory cards from the voting equipment, the officials shall first print the results report from the voting equipment.

**22.51(10) Return of memory cards.** If the precinct election officials remove the memory cards from the voting equipment on election night, they shall return to the commissioner the memory cards and the seals used to secure them in a sealed envelope or other container. All officials of the precinct shall witness the statement on the envelope or other container. The label on the envelope or other container shall be in substantially the following form:

### Memory Cards

Election Date: \_\_\_\_\_

Precinct: \_\_\_\_\_

This envelope contains Memory Cards and memory card access seals from this precinct.

Machine Number	Memory Card #	Memory Card Seal #

[Signatures of all precinct election officials shall be included on the label.]

**22.51(11) Storage.** If the memory cards are returned inside the voting equipment to the commissioner, the machine serial numbers and the seal numbers shall be verified against the verification log described in subrule 22.51(8). When the memory cards are removed, their serial numbers shall also be verified against the verification log returned by the precinct's election officials. The memory card audit log shall be retained for the time period required by Iowa Code section 50.19.

**22.51(12) Results verified.** Before the conclusion of the canvass of votes, the individual results reports from the precincts, as signed by the precinct election officials at the polls on election night, shall be compared to the election results compiled for the canvass (either manually or electronically) to verify that transmitted and accumulated totals match the results witnessed by the election officials. Any discrepancies in these totals shall be reconciled before the supervisors conclude the canvass.

**22.51(13) Retention of programmed memory cards.** The election information on all memory cards used for an election shall be retained on the memory cards until after the time to file requests for recounts and election contests has passed. If a contest is pending, the memory cards shall be retained until the contest is resolved. Before the memory cards are permanently erased, the commissioner shall print the memory card audit log from each card.

**22.51(14) Retention of program information.** The commissioner shall retain all instructions and other written records of the process for programming the memory cards and the memory card audit logs for the period required by Iowa Code section 50.19. The contents of memory cards and other electronic records of the election process shall be collected and retained in an electronic or other medium and stored with the other election records for the time period required by Iowa Code section 50.19.

**721—22.52(52) Voting equipment malfunction at the polls.** The precinct election officials shall immediately cease using any malfunctioning voting equipment and report the problem to the commissioner. Only a person who is authorized in writing by the commissioner to do so shall be

permitted to attempt to repair malfunctioning voting equipment. The person shall show identification to the precinct election official. The commissioner shall keep a written record of all known malfunctions and their resolution. The precinct election officials shall return the voting equipment to service only if the malfunction is corrected.

**22.52(1) Routine resolution.** Some problems may be easily resolved by following simple instructions. If the commissioner and the precinct election officials are able to resolve a problem without replacing the equipment, the officials shall document the problem, the time it occurred, how it was resolved, and by whom.

**22.52(2) Repair or replacement.** Repairs to voting equipment at the polls on election day shall be limited. If the problem cannot be easily resolved, a person who is authorized to do so by the commissioner shall replace the equipment as soon as possible. Two election officials, one from each political party, shall witness repair or replacement of any voting equipment, including memory cards. The authorized person making the repair or replacement and the two election officials shall sign a report of the incident.

**721—22.53 to 22.99** Reserved.

#### OPTICAL SCAN VOTING SYSTEMS

**721—22.100(52) Optical scan ballots, automatic tabulating equipment, and absentee voting.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.101(52) Definitions.** The definitions established by this rule shall apply whenever the terms defined appear in relation to an optical scan system used with the type of ballot defined in this rule.

*“Ballot”* means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more optical scan ballots.

*“Optical scan voting system”* means a system employing optical scan ballots under which votes are cast by voters by marking the optical scan ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

*“Overvote”* means to vote for more than the permitted number of choices for any office or question on a ballot.

*“Secrecy envelope”* means a reusable envelope of sufficient construction that when the optical scan ballot is inserted in it all portions indicating voting marks are hidden from view.

*“Tabulating device”* means the portable apparatus which examines and counts the votes recorded on the optical scan ballot and produces a paper printout of the results of the voting.

*“Ticket”* means each list of candidates nominated by a political party or group of petitioners.

*“Undervote”* means to vote for fewer than the permitted number of choices for any office or question on a ballot.

*“Voting system”* means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). “Voting system” also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

*“Voting target”* means the space on an optical scan ballot which the voter marks to cast a vote for a candidate, judge or question. This target shall be printed according to the requirements of the voting system to be used to read the ballots.

**721—22.102(52) Optical scan ballots.** The optical scan ballots shall be printed pursuant to Iowa Code chapters 43 and 49 and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the system.

**22.102(1)** The optical scan ballots may be printed on both sides of a sheet of paper. If both sides are used, the words “Turn the ballot over” shall be clearly printed on the front and the back of the optical scan ballot, at the bottom.

**22.102(2)** Printed at the top of the front side of the optical scan ballot shall be the name and date of the election; the words “Official Ballot”; a designation of the ballot style or precinct, if any; and a facsimile of the commissioner’s signature.

**22.102(3)** The voting target shall be printed opposite each candidate’s name and write-in line on the optical scan ballot, and opposite the “yes” and “no” for each public measure and judge. The voting target shall be printed on the left side of the name or “yes” and “no”. The voting target shall be an oval unless the voting system requires a target with a different shape.

**22.102(4)** For partisan primary elections, the names of candidates representing each political party shall be printed on separate optical scan ballots. The ballots shall be uniform in quality, texture and size. The name of the political party shall be printed in at least 24-point type (1/4" high) at the top of the ballot.

**22.102(5)** There shall be printed on the ballot a line to accommodate the initials of the precinct election official who endorses the ballot as provided in Iowa Code sections 43.36 and 49.82.

**22.102(6)** It is not necessary for public measures to be printed on colored paper.

**22.102(7)** Ballots shall be coded as necessary to allow the tabulation program to identify the appropriate ballots for the precinct. Ballots shall be coded so the tabulating device can identify by precinct the votes cast for each office and question on the ballot by precinct. The votes from the absentee and special voters precinct shall be reported as a single precinct except in general elections pursuant to Iowa Code section 53.20 as amended by 2008 Iowa Acts, House File 2367. Identical ballots shall not be coded to identify groups of voters within a precinct.

**22.102(8)** No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. If the full text of a public measure will not fit on a single column of the ballot, the commissioner shall prepare a summary for the ballot and post the full text in the voting booth as required by Iowa Code section 52.25.

**22.102(9)** Ballots shall be stored in a locked room or storage area. Access to the storage area shall be restricted to those persons identified in the election security plan. Throughout the election process, the commissioner shall keep accurate records of the number of each type of ballot or ballot style printed for the election. This record shall include the number of ballots:

- a. Ordered from the printer.
- b. Printed and delivered by the printer to the commissioner. The commissioner may store sealed, unopened packages of ballots without verifying the number of ballots in the package.
- c. Used for testing as required by Iowa Code sections 52.9 and 52.35 and rule 721—22.41(52).
- d. Held in reserve for emergencies as required by Iowa Code section 49.66.
- e. Delivered to and returned from the polling places as required by Iowa Code sections 49.65 and 50.10.
- f. Used for absentee voting, including any spoiled ballots.
- g. Issued as sample ballots to the public as permitted by Iowa Code section 43.30.
- h. Photocopied ballots used pursuant to Iowa Code section 49.67.
- i. Printed by the commissioner using any voting system program, such as Election Systems & Software’s Ballot on Demand program.

**721—22.103 to 22.199** Reserved.

#### PRECINCT COUNT SYSTEMS

#### **721—22.200(52) Security.**

**22.200(1)** At least one tabulating device shall be provided at each precinct polling place for an election. If the tabulating device is delivered to the polling place before election day, it shall be secured against tampering or kept in a locked room.

**22.200(2)** The maintenance key or keys used to gain access to the internal parts of the tabulating device shall be kept in a secure place and in a secure manner, in the custody of the commissioner. On election day, the key used to obtain the paper printout shall be kept by the chairperson of the precinct election officials in a secure manner. Small electronic devices, such as memory cards, cartridges or other data storage devices used to activate tabulation equipment or to store election information, shall be in the custody of the precinct chairperson when the devices are not installed on the voting equipment.

**22.200(3)** If a password is needed for precinct election officials to have routine access to the tabulating device during election day, the password shall be changed for every election. The commissioner shall restrict access to the password in the written security policy.

**721—22.201(52) Programming and testing the tabulating devices for precinct count systems.**

**22.201(1)** All programming of tabulating devices shall be performed under the supervision of the commissioner. The devices shall be programmed to ensure that all votes will be counted in accordance with the laws of Iowa. Tabulating devices shall be programmed to return to the voter any ballots:

- a. That are not coded to be used in the precinct.
- b. That are read as blank.
- c. That have one or more overvoted offices or public measures.

**22.201(2)** Rescinded IAB 10/25/06, effective 10/4/06.

**721—22.202 to 22.220** Reserved.

**721—22.221(52) Sample ballots and instructions to voters.** Sample special paper ballots and printed instructions for casting votes on special paper ballots shall be prominently displayed in each polling place. Instructions shall also be displayed inside each voting booth. Each special paper ballot shall also include an example of the method of marking the ballot recommended by the manufacturer of the tabulating device. Further instructions shall be provided to any voter who requests assistance in accordance with Iowa Code section 49.90.

**721—22.222 to 22.230** Reserved.

**721—22.231(52) Emergency ballot box or bin.** Each precinct shall be furnished with an emergency ballot box or bin that is suitably equipped with a lock and key or numbered, tamperproof seal. In the event of power failure or malfunction of the tabulating device, voted ballots shall be deposited in the locked or sealed emergency ballot box or bin. A precinct election official shall put the ballot into the emergency ballot box or bin for the voter. The voted ballots so deposited may be removed from the locked emergency ballot box or bin and tabulated before the polls close whenever a properly functioning tabulating device becomes available, or the voted ballots so deposited may be removed and counted electronically or manually immediately after the polls are closed. If the ballots are counted manually, the precinct election officials shall follow the requirements of 721—Chapter 26.

**721—22.232(52) Manner of voting.** After the precinct election official has endorsed a ballot, the official shall instruct the voter to use only the marker provided. The ballot shall be inserted in a secrecy folder and given to the person who is entitled to receive the ballot in accordance with the provisions of Iowa Code section 49.77.

**22.232(1)** The precinct officials shall provide each voter with a secrecy folder. The commissioner may print basic ballot marking instructions on the secrecy folder. It is not necessary to print information on secrecy folders that will limit the usefulness of the secrecy folder to one or more elections or election types. Upon receipt of the ballot in the secrecy folder, the voter shall retire alone to a voting booth and without delay mark the ballot.

**22.232(2)** The voter shall vote upon the ballot by marking the appropriate voting target with an appropriate pen or pencil in the manner described in the instructions printed on the ballot.

When a write-in vote has been cast, the ballot must also be marked in the corresponding voting target in order to be counted.

**22.232(3)** After marking the ballot, the voter shall replace it in the secrecy folder and leave the voting booth at once.

**22.232(4)** The voter shall at once deposit the ballot, still enclosed in the secrecy folder, in the tabulating device so that the ballot is automatically removed from the secrecy folder, the votes tabulated, and the ballot deposited in the ballot box.

**22.232(5)** If the tabulating device is equipped with a mechanism that will not permit more than one ballot to be inserted at one time, the voter may insert the ballot into the tabulating device. If the tabulating device cannot detect and reject multiple ballots, the voter shall be required to hand the ballot in the secrecy folder to the precinct election official without revealing any of the marks on the ballot. The precinct election official shall at once deposit the ballot in the manner described in subrule 22.232(4).

**22.232(6)** If the tabulating device returns a ballot, the precinct official attending the device shall ask the voter to wait. Without examining the ballot, the official shall enclose the returned ballot in a secrecy folder. If necessary, the official shall read to the voter the information provided by the device about the reason the ballot was returned. The official shall offer the voter the opportunity to correct the ballot. The precinct official shall mark the returned ballot “spoiled” and shall also tear or mark the ballot so that the tabulating device cannot count it. The voter may use the spoiled ballot as a guide for marking the corrected ballot. After the voter has marked the corrected ballot, the precinct officials shall collect the spoiled ballot and keep it with other spoiled ballots.

**22.232(7)** If the voter who cast the returned ballot is not available, or declines to correct the ballot, the precinct official shall not mark the ballot “spoiled.” Either the voter or the official shall reset the tabulating device to accept the ballot. The voter, or the official if the voter has gone, shall insert the ballot into the precinct counter without further examination.

**721—22.233 to 22.239** Reserved.

**721—22.240(52) Results.** After the polls are closed and the tabulating device has processed all of the ballots, including any ballots from the emergency ballot box or bin, the precinct election officials shall:

**22.240(1)** Unlock the tabulating device and obtain a paper printout showing the votes cast for each candidate and public measure.

**22.240(2)** Fasten the paper printout to the official tally sheet.

**22.240(3)** Unlock or remove the seal on the ballot box or bin containing ballots with write-in votes and open it. The precinct officials shall remove the ballots and manually count the write-in votes as required by 721—Chapter 26. The officials shall record the write-in votes in the tally list. A single tally list is sufficient for use when tabulating write-in votes.

**22.240(4)** Seal all ballots in a transfer case to be returned to the commissioner in accordance with Iowa Code section 50.12.

**22.240(5)** It is not necessary for the precinct officials to separate primary election ballots by political party.

**721—22.241(52) Electronic transmission of election results.** If the equipment includes a modem for the electronic transmission of election results, the precinct officials may transmit the results after a printed copy has been made. If the voting system includes a data card, cartridge or other small device that contains an electronic copy of the election results, the precinct chairperson shall secure the device and ensure its safe delivery to the commissioner.

**721—22.242 to 22.249** Reserved.

**721—22.250(52) Absentee voting instructions.** Printed instructions shall be included with the ballot or ballots given to or mailed to each absentee voter. Written instructions to the voter shall be sent with every absentee ballot. For federal elections, the commissioner shall use only the instructions provided by the state commissioner.

**721—22.251(52) Absentee voting instructions.** Rescinded IAB 11/23/05, effective 12/28/05.



**721—22.252 to 22.259** Reserved.

**721—22.260(52) Specific precinct count systems.** Additional rules are provided for the following systems approved for use in Iowa. Rule 721—22.261(52) applies only to the voting system indicated and is in addition to the general provisions set forth in rules 721—22.200(52) through 721—22.250(52).

**721—22.261(52) Election Systems & Software Model 100—preparation and use in elections.**

**22.261(1) Security.** The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

- a. Passwords used at the polling places on election day shall be changed for each election.
- b. The control key for the Model 100 shall be in the possession of the precinct chairperson during election day.

**22.261(2) Configuration choices.** The following selections are mandatory for all elections:

a. *Maximum number of votes.* The following description for each office shall be used: “Vote for no more than xx.” Do not include “vote for” language for public measures or judges.

b. *Ballot control.* In an official election, the commissioner shall never program the Model 100 for unconditional acceptance of all ballots; shall not divert blank ballots to the write-in bin; and shall always accept undervoted ballots. The system shall be programmed to query the voter in each of the following situations:

- (1) Overvoted ballot.
- (2) Blank ballot.
- (3) Unreadable ballot.

c. *Unit control.* The commissioner shall not select automatic transmission of election results by modem. The precinct officials must print the official results at the polling place before transmitting them.

d. *Reports.* The following are required reports:

- (1) Opening the polls. Print the Zero Certification report.
- (2) Closing the polls. Print the poll report before transmitting the election results by modem. The poll report is the official record of the votes cast in the precinct on election day.

(3) Certification text to appear at the end of the poll report:

We, the undersigned Precinct Election Officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the M100 Optical Scan tabulation device at this election.

[print lines for each of the officials to sign]

Precinct Election Officials                      Date: \_\_\_\_\_ Time: \_\_\_\_\_



e. *Reopen polls.* The commissioner shall enable this option, but protect it against unauthorized use. If it is necessary to reopen the polls, the chairperson of the precinct board shall contact the commissioner for the password.

**22.261(3) Ballot printing.**

a. *Format.* The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. All text and the “yes” and “no” choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot.

b. *Instructions for voters.* The following instructions shall be printed on ballots:

- (1) Voting mark. To vote, fill in the oval next to your choice.

 CANDIDATE NAME  
 CANDIDATE NAME

(2) Straight party voting. To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions.

## (3) Public measures.

Notice to voters. To vote to approve any question on this ballot, fill in the oval in front of the word “Yes”. To vote against a question, fill in the oval in front of the word “No”.

**22.261(4) System error messages.** Precinct election officials shall be provided with the following list of system error messages and the appropriate responses. The officials shall be instructed to contact the commissioner or the commissioner’s designee for all other messages.

**Overvoted ballot returned.** Ask voter to reinsert ballot. If the ballot is returned again, do not look at the voter’s ballot. Put it in a secrecy folder. Tell the voter that for one or more offices the scanner read more votes than the maximum number of votes allowed. To correct the error, the voter must mark a new ballot and may copy votes from the original ballot. Only if the voter agrees to mark a new ballot, write “spoiled” on the original ballot and tear off one corner to prevent it from being accepted by the scanner. Advise the voter to return to the booth and mark the new ballot. Be sure to collect the spoiled ballot before the voter leaves.

**Overvoted ballot accepted.** This message will appear when the scanner accepts an overvoted ballot.

**Unidentified mark—check your ballot.** One or more marks on the ballot are not dark enough to be seen as a vote. Do not look at the voter’s ballot. Put it in a secrecy folder and return the ballot to the voter. Ask the voter to review the ballot and to darken the marks. Then the voter may put the ballot back into the scanner.

If any of the following messages appear more than twice for the same ballot, call the auditor’s office to report the problem:

100—MISSED ORIENTATION MARKS/Turn Ballot Over and Try Again.

101—MISSED TIMING MARKS/Turn Ballot Over and Try Again.

102—NO DATA FOUND/Please Reinsert Ballot After Beeps.

104—ORIENTATION SKIP ERROR.

106—MISSED TIMING MARKS/Turn Ballot Over and Try Again.

If any of the following messages appear, ask the voter to remove the ballot and reinsert it. If the same message appears more than twice for the same ballot, call the auditor’s office to report the problem.

107—BALLOT ERROR: INVALID CC SEQUENCE.

108—BALLOT ERROR: INVALID CC TYPE.

109—BALLOT ERROR: INVALID CC SPLIT.

115—MISSED BACK ORIENTATION MARK/Turn Ballot Over and Try Again.

119—MULTIPLE BALLOTS DETECTED/Please Reinsert Ballot After Beeps. Did the voter actually try to put an extra ballot in? Is the ballot folded?

123—UNABLE TO READ TIMING BAND/Turn Ballot Over and Try Again.

124—BALLOT DRAGGED/Turn Ballot Over and Try Again.

126—BLACK CHECK: FACE DOWN HEAD EDGE/Turn Ballot Over and Try Again.

127—BLACK CHECK: FACE DOWN TAIL EDGE/Turn Ballot Over and Try Again.

128—BLACK CHECK: FACE UP HEAD EDGE/Turn Ballot Over and Try Again.

129—BLACK CHECK: FACE UP TAIL EDGE/Turn Ballot Over and Try Again.

130—POSSIBLE FOLDED BALLOT/Turn Ballot Over and Try Again.

**22.261(5) Record retention.** The Model 100 uses a thermal printer. The maximum anticipated life span of the results from each Model 100 is only five years. In order to preserve the permanent record of the precinct results required by Iowa Code section 50.19, the commissioner shall print a copy of the results of each precinct on permanent paper and store these copies with the tally lists from precincts where the Model 100 was used.

[ARC 9468B, IAB 4/20/11, effective 5/25/11]

## 721—22.262(52) Premier Election Solutions' AccuVote OS and AccuVote OSX precinct count devices.

**22.262(1) Security.** The commissioner shall have a written security plan for the voting system. Access to voting equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

- a. Passwords used at polling places shall be changed for each election.
- b. For each election, the precinct chairperson shall be responsible for the custody and security of the control card and ballot box keys and the security of the voting system.

**22.262(2) Configuration choices.** The following selections are mandatory for all elections:

- a. Reject settings shall be configured as follows:
  - (1) Return to voters ballots that include one or more overvoted races and blank-voted ballots. Include on the override log the number of times the override option was used for overvoted and blank-voted ballots.
  - (2) Divert to the write-in ballot bin only ballots with write-in votes.
  - (3) Do not include reject settings for blank voted races, undervoted races, straight party overvotes, multiparty overvotes or duplicate votes.

b. Tally settings shall be as follows:

- (1) The straight party shall be “Exclusive.”
- (2) The write-in setting shall be “Combined.”

**22.262(3) Zero totals reports.** Long form zero totals reports showing all counters at zero shall be printed following memory card programming, before counting ballots in the Pre-Election Mode and as the ballot reader is opened on election day.

**22.262(4) Ballot printing.** Although the Premier Election Solutions' GEMS voting system software includes choices for variations in ballot layout, all ballots shall be prepared according to the requirements of Iowa Code sections 43.26 through 43.29 and 49.30 through 49.48. For all elections the voting target shall be an oval printed on the left side of each choice on the ballot.

**22.262(5) Preelection testing.** All voting equipment shall be tested pursuant to the provisions of Iowa Code section 52.30 and rule 721—22.42(52). At the commissioner's discretion, the commissioner may conduct additional tests.

**721—22.263(52) AutoMARK Voter Assist Terminal (VAT).**

**22.263(1) Acceptance testing.** Upon receipt of the equipment from the vendor, the commissioner shall subject each AutoMARK VAT to an acceptance test. The test shall be in addition to any testing provided by the vendor and shall include a demonstration of all functionalities of the device.

**22.263(2) Audio ballot preparation.** Each candidate shall have the opportunity to provide a record of the proper pronunciation of the candidate's name. The same voice shall be used for recording the entire ballot including instructions, office titles, candidate names and the full text of all public measures.

**22.263(3) Preelection testing.** Each AutoMARK VAT shall be tested before each election in which it will be used. The commissioner may use the AutoMARK VAT to prepare some ballots for test decks required by rule 721—22.42(52). In addition, the commissioner shall:

- a. Perform the test ballot print, then review the ballot to be sure that all ovals are darkened and the appropriate names are printed on each line.
- b. Calibrate the touchscreen.
- c. Select, then deselect each voting position in each race.
- d. Verify that the overvote and undervote functions are programmed correctly.
- e. Test the write-in function for each office on one ballot, and test all of the letters in the alphabet.
- f. Use the audio ballot function to mark one ballot.
- g. Tabulate the marked ballots from this test on the appropriate optical scanner.
- h. Ensure that the AutoMARK VAT is available for demonstration at public tests.

**22.263(4) Compact flash memory cartridge or memory card.** The compact flash memory cartridge shall be installed before the AutoMARK VAT is locked, sealed and shipped to the polling place for election day. In addition to locking the memory cartridge access door, the commissioner shall seal the door with a numbered seal, record the seal number, and provide the number to the precinct election officials as required by rule 721—22.51(52). From the time the AutoMARK VAT is delivered to the polling place until the time the precinct election officials arrive, the AutoMARK VAT shall be stored securely to prevent tampering. On election day, the precinct election officials shall inspect the seal and verify that the original numbered seal is present and undamaged.

**22.263(5) Calibration testing.** The commissioner may provide for printer and touchscreen calibration testing after delivery of the AutoMARK VAT to the polling place. If calibration testing is performed at the polling place, the delivery staff shall complete the testing before the polls open on election day and shall keep a log for each AutoMARK VAT and record the machine serial number, the precinct name or number, the date and time of the test, the name of the person performing the test, and the lifetime printer counter number at the completion of the test. The ballot to be used in the calibration test shall be provided to the tester and shall be labeled with the precinct name and election date. The completed calibration test ballot shall be returned to the commissioner and kept with the election records.

**22.263(6) AutoMARK VAT keys.** Possession of the AutoMARK VAT keys shall be restricted to precinct election officials and authorized members of the commissioner's staff.

**22.263(7) Table.** The table used to support the AutoMARK VAT shall meet the following requirements: The table shall be sturdy enough to hold the 40-pound AutoMARK VAT safely. Clearance shall be at least 27 inches high, 30 inches wide, and 26 inches deep. The top of the table shall be from 28 inches to 34 inches above the floor.

**22.263(8) Privacy.** The commissioner may provide each AutoMARK VAT with a privacy shield to protect the secrecy of each voter's ballot. The commissioner shall instruct the precinct election officials to position the AutoMARK VAT to provide maximum access for voters (especially voters who use wheelchairs) as well as privacy.

**22.263(9) Abandoned ballots.** If a voter or precinct election official discovers that a voter has left the AutoMARK VAT without printing the voter's ballot, the two precinct election officials designated to assist voters shall print the ballot without reviewing the ballot or making any changes, enclose the ballot in a secrecy folder, and immediately deposit the ballot in the tabulating device.

**721—22.264 to 22.339** Reserved.

#### OPTICAL SCAN VOTING SYSTEM USED FOR ABSENTEE AND SPECIAL VOTERS PRECINCT

**721—22.340(52) Processing.** All scanners used to tabulate absentee and provisional ballots shall be configured to sort blank ballots and ballots containing marks in write-in vote targets for review by the resolution board. The scanners shall not be configured to sort ballots with overvotes. However, if it is not possible to configure the scanners used to count absentee ballots differently from those used at the polling places, the person operating the scanner shall override the scanner and accept overvoted ballots as they are processed. The resolution board shall follow the requirements of 721—subrule 26.2(2). The commissioner shall provide the resolution board with a copy of 721—Chapter 26, "Counting Votes."

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

**721—22.341(52) Reporting results from absentee ballots and provisional ballots.** Absentee and provisional ballot results shall be reported as a single precinct as required by subrule 22.102(7).

**721—22.342(52) Tally list for absentee and special voters precinct.**

**22.342(1)** Write-in votes shall be reported on a separate tally sheet which provides a column for the names of offices, a column for the names of persons receiving votes, space to tally the votes received, and a column in which to report the total number of votes cast for each person. In tally lists provided for primary elections, separate pages shall be provided to tally the write-in votes for each political party. Each member of the board who participated in the count shall attest to each tally sheet for write-in votes.

**22.342(2)** The officials shall certify the procedures followed. The certification shall be in substantially the following form:

Absentee and Special Voters Tally Certificate

\_\_\_\_\_ County

We, the undersigned officials of the Absentee and Special Voters Precinct for this county, do hereby certify that all ballots delivered to the Board for this election were tabulated as shown in the attached report.

We further certify that a record of any write-in votes or other votes manually counted pursuant to Iowa Code chapter 52 is included in this Tally List, and that the numbers entered in the column headed "Total Votes" are the correct totals of all votes manually counted by us.

Signed at \_\_\_\_\_ on \_\_\_\_/\_\_\_\_/\_\_\_\_, \_\_\_\_:\_\_\_\_ a.m./p.m.

[signatures of officials] 1. \_\_\_\_\_  
2. \_\_\_\_\_ (etc.)

**22.342(3)** The record generated by the tabulating equipment shall be attached to or enclosed with the tally list and shall constitute the official return of the precinct.

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

**721—22.343(39A,53) Counting absentee ballots on the day before the general election.** When absentee ballots are tabulated on the day before the election as permitted or required by Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670, the absentee and special voters precinct board and county commissioner shall implement the following security precautions:

**22.343(1)** *Seal and label voted ballot envelopes or other containers with date of tabulation.* The precinct election officials shall seal all ballots tabulated on the day before the election in a voted ballot envelope or other container labeled with the date of tabulation. The precinct election officials shall seal and sign the envelope or other container in a manner that will make it evident if the envelope or other container is opened.

**22.343(2)** *Ensure secure storage of all ballots.* Before adjourning for the day, the precinct election officials shall transfer custody of all absentee ballots to the commissioner. The commissioner shall ensure all absentee ballots are stored in a secure location until tabulation is resumed on election day.

**22.343(3)** *Ensure memory card security.* Before the absentee and special voters precinct board adjourns for the day, the memory card used in the tabulator(s) on the day before the election shall be secured by the precinct election officials in one of the following ways:

*a.* The memory card may be left in the tabulator when a tamper-evident seal is affixed over the memory card in a manner that will make it evident if the seal is removed.

*b.* The memory card may be removed from the tabulator and placed in an envelope. The precinct election officials shall seal the envelope in a manner that will make it evident if the envelope is opened.

**22.343(4)** *Ensure security of the tabulator(s).* Before adjourning for the day, the precinct election officials shall ensure the security of the tabulator(s). The tabulator(s) must be stored in a secure location until the absentee and special voters precinct board resumes tabulation on election day.

**22.343(5)** *No results tape printing on the day before the election.* No results tapes may be printed from the tabulator(s) on the day before the election.

**22.343(6)** *No upload of results to tabulating software until election day.* No results may be uploaded or input into tabulating software on the day before the election.

**22.343(7)** *Verify no tampering before resuming tabulation on election day.* Before tabulation resumes on election day, the absentee and special voters precinct board shall verify the tabulator(s), memory card(s) and memory card port(s) have not been obviously tampered with overnight.

**22.343(8)** *Resume tabulation.* The absentee and special voters precinct board shall resume tabulation using one of the following methods:

*a.* Using the same memory card(s) used on the day before the election and resuming tabulation.

*b.* Using a new memory card(s) and compiling the results contained on the memory card(s) used on election day and on the day before the election.

**22.343(9) *Print audit logs.*** After the election, the audit logs must be printed and be available for public inspection.

This rule is intended to implement Iowa Code section 39A.5, section 1, paragraph “a,” subparagraph (3), and Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670.  
[ARC 8698B, IAB 4/21/10, effective 6/15/10]

**721—22.344 to 22.349** Reserved.

**721—22.350(52) Election Systems & Software models.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.351(52) Diebold Election Systems’ AccuVote-OS central count process.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.352 to 22.430** Reserved.

#### VOTING MACHINES

**721—22.431(52) Temporary use of printed ballots in voting machine precincts.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.432(52) Abandoned ballots.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.433(52) Prohibited uses for direct recording electronic voting machines.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.434(52) Audio ballot preparation.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.435 to 22.460** Reserved.

**721—22.461(52) MicroVote Absentee Voting System.** Rescinded IAB 8/1/07, effective 7/13/07.

**721—22.462(52) Fidler & Chambers’ Absentee Voting System.** Rescinded IAB 10/30/02, effective 1/1/03.

**721—22.463(52) Election Systems & Software iVotronic.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.464(52) Diebold Election Systems AccuVote TSX DRE.** Rescinded IAB 10/8/08, effective 9/19/08.

**721—22.465 to 22.499** Reserved.

**721—22.500(52) Blended systems.** Rescinded IAB 10/8/08, effective 9/19/08.

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CHAPTER 90  
ADMINISTRATION OF THE BOILER AND PRESSURE VESSEL PROGRAM

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Chs 200, 202]

**875—90.1(89) Purpose.** These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89.

**875—90.2(89,261,252J,272D) Definitions.** To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

*“Alteration”* means a change in a boiler or pressure vessel that substantially alters the original design requiring consideration of the effect of the change on the original design. It is not intended that the addition of nozzles smaller than an unreinforced opening size will be considered an alteration.

*“ANSI/ASME CSD-1”* means Control and Safety Devices for Automatically Fired Boilers.

*“ASME”* means the American Society of Mechanical Engineers.

*“Authorized inspector”* means a special inspector or an inspector of boilers and pressure vessels employed by the division.

*“Blowoff valve”* means all blowoff valves, drain valves, and pipe connections.

*“Boiler”* means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

*“Certificate of noncompliance”* means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;
2. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or
3. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

*“CFR”* means Code of Federal Regulations.

*“Construction or installation code”* means the applicable standard for construction or installation in effect at the time of installation.

*“Division”* means the division of labor services, unless another meaning is clear from the context.

*“Electric boilers”* means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

*“External inspection”* means as complete an examination as can be reasonably made of the external surfaces and safety devices while the boiler or pressure vessel is in operation.

*“High temperature water boiler”* means a water boiler intended for operations at pressures in excess of 160 psig or temperatures in excess of 250 degrees F.

*“Hot water heating boiler”* means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig or a temperature of 250 degrees F at the boiler outlet.

*“Hot water supply boiler”* means a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 250 degrees F.

*“Internal inspection”* means as complete an examination as can be reasonably made of the internal and external surfaces of a boiler or pressure vessel while it is shut down and while manhole plates, handhole plates or other inspection opening closures are removed as required by the inspector.

*“ISO”* means International Standards Organization.

*“Labor commissioner”* means the labor commissioner or the commissioner’s designee.

*“Lap seam crack”* means a crack found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

*“National Board”* means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of local boiler codes.

*“National Board Inspection Code”* means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

*“Object”* means a boiler or pressure vessel.

*“Power boiler”* means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

*“Process steam generator”* means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

*“Psig”* means pounds per square inch gage.

*“Reinstalled boiler or pressure vessel”* means an object removed from its original setting and reinstalled at the same location or at a new location.

*“Relief valve”* means an automatic pressure-relieving device actuated by a static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure and that is used primarily for liquid service.

*“Repair”* means work necessary to return a boiler or pressure vessel to a safe operating condition.

*“Rupture disk device”* means a nonreclosing pressure-relief device actuated by inlet static pressure and designed to function by the bursting of a pressure-containing disk.

*“Safety appliance”* shall include, but not be limited to:

1. Rupture disk device;
2. Safety relief valve;
3. Safety valve;
4. Temperature limit control;
5. Pressure limit control;
6. Gas switch;
7. Air switch; or
8. Any major gas train control.

*“Safety relief valve”* means an automatic, pressure-actuated relieving device suitable for use as a safety or relief valve, depending on application.

*“Safety valve”* means an automatic, pressure-relieving device actuated by the static pressure upstream of the valve and characterized by full opening pop action. The safety valve is used for gas or vapor service.

*“Special inspection”* means an inspection which is not required by Iowa Code chapter 89.

*“Temperature and pressure relief valve”* means a valve set to relieve at a designated temperature and pressure.

*“Unfired steam boiler”* means a vessel or system of vessels intended for operation at a pressure in excess of 15 psig for the purpose of producing and controlling an output of thermal energy.

*“Unfired steam pressure vessel”* means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source.

*“U.S. customary units”* means feet, pounds, inches and degrees Fahrenheit.

*“Water heater supply boiler”* means a closed vessel in which water is heated by combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressure not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees F.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 9790B, IAB 10/5/11, effective 11/9/11]

**875—90.3(89) Iowa identification numbers.** All objects shall be identified by an Iowa identification number. State inspectors and special inspectors shall assign identification numbers as directed by the

division to all jurisdictional objects that lack numbers. Identification numbers shall be attached in plain view to the object using one of the following methods:

1. A yellow sticker 2 inches by 3 inches affixed to the object and bearing the number.
2. A metal tag 1 inch by 2½ inches affixed to the object and bearing the number.
3. Numbers at least 5/16 of an inch high and stamped directly on the object.

**875—90.4(89) National Board registration.** Rescinded IAB 11/18/09, effective 1/1/10.

**875—90.5(89) Preinspection owner or user preparation.**

**90.5(1) *Preparation of objects.*** Each owner or user shall ensure that each object covered by Iowa Code chapter 89 is prepared for inspection pursuant to this rule.

**90.5(2) *Confined space and lockout, tagout procedures.***

a. It is the responsibility of the owner or user to assess all objects for compliance with the confined space and lockout, tagout standards pursuant to 29 CFR 1910.146 and 1910.147. If an object is a non-permit-required confined space or a permit-required confined space as defined by 29 CFR 1910.146, the owner or user must comply with all applicable requirements of 29 CFR 1910.146 and 1910.147 in preparing the object for inspection.

b. It is the duty of the owner or user to inform any inspector of the owner's or user's confined space entry and lockout, tagout procedures and supply to the inspector all information necessary to assess whether the confined space is safe for entry. It is the right of an inspector to verify any of the information supplied.

c. If the requirements of 29 CFR 1910.146 and 1910.147 are not met, the inspector shall not enter the space. If there is a breach of the procedure or the procedure is inconsistent with 29 CFR 1910.146 or 1910.147, the inspection process shall cease until the space is reassessed and determined to be safe or the procedure is rewritten in a manner consistent with the standards. No inspector shall violate the owner's or user's confined space or lockout, tagout procedures in making an inspection.

d. The owner or user shall have all objects locked and tagged, as applicable, prior to the inspector's entry for inspection or testing.

e. For entry into a permit-required confined space, the owner or user shall provide the necessary equipment such as air monitors and a qualified attendant who has received all the information relevant to the entry.

**90.5(3) *Hydrostatic tests.*** The owner or user shall prepare for and apply a hydrostatic test, whenever necessary, on the date specified by the inspector, which date shall be not less than seven days after the date of notification.

**90.5(4) *Boilers.*** A boiler shall be prepared for internal inspection in the following manner:

a. Fluid shall be drawn off and the boiler washed thoroughly.

b. Manhole and handhole plates, washout plugs and inspection plugs in water columns shall be removed as required by the inspector. The furnace and combustion chambers shall be thoroughly cooled and cleaned.

c. All grates of internally fired boilers shall be removed.

d. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

e. Low-water fuel cutoff controls shall be opened or removed to allow for visual inspection.

**90.5(5) *Pressure vessels.*** The extent of inspection preparation for a pressure vessel will vary. If the inspection is to be external only, advance preparation is not required other than to afford reasonable access to the vessel. For combined internal and external inspections of small vessels of simple construction handling air, steam, nontoxic or nonexplosive gases or vapors, minor preparation is required, including affording reasonable means of access and removing manhole plates and inspection openings. In other cases, preparation shall include removing the internal fittings and appurtenances to permit satisfactory inspection of the interior of the vessel if required by the inspector.

**90.5(6) *Removal of covering or brickwork to permit inspection.*** If the object is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, sufficient jacketing, setting wall, or other

form of casing or housing shall be removed to permit reasonable inspection of the seams and so that the size of rivets, pitch of the rivets, and other data necessary to determine the safety of the object may be obtained, providing the information cannot be determined by other means. Brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, header, furnace, supports or other parts.

**90.5(7) *Improper preparation for inspection.*** If an object has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for hydrostatic tests as set forth in this chapter, the inspector may decline to make the inspection or test, and the inspection certificate shall be withheld until the owner or user complies with the requirements.

[ARC 9082B, IAB 9/22/10, effective 10/27/10]

## **875—90.6(89) Inspections.**

**90.6(1) *General.*** All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code (2007 with 2008 addenda), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

**90.6(2) *Schedule.*** Inspections must be performed according to the schedule set forth in Iowa Code section 89.3 and within a 60-day period prior to the expiration date of the operating certificate. Modification of this period will be permitted only upon written application showing just cause for waiver of the 60-day period. Special inspections may be conducted at any time mutually agreed to by the division and the object's owner or user.

**90.6(3) *Inspections conducted by special inspectors.*** Special inspectors shall provide copies of the completed report to the insured and to the division within 30 days of the inspection. The reports shall list all adverse conditions and all requirements, if any. If the special inspector has not notified the division of the inspection results within 30 days of the expiration of an operating certificate, the division may conduct the inspection.

**90.6(4) *Type of inspection.*** The inspection shall be an internal inspection when required; otherwise, it shall be as complete an external inspection as possible. Conditions including, but not limited to, the following may also be the basis for an internal inspection:

- a. Visible metal or insulation discoloration due to excessive heat.
- b. Visible distortion of any part of the pressure vessel.
- c. Visible leakage from any pressure-containing boundary.
- d. Any operating records or verbal reports of a vessel being subjected to pressure above the nameplate rating or to a temperature above or below the nameplate design temperature.
- e. A suspected or known history of internal corrosion or erosion.
- f. Evidence or knowledge of a vessel having been subjected to external heat from a resulting fire.
- g. A welded repair not documented as required.
- h. Personal injury, property damage accident, or malfunction affecting the pressure vessel's integrity.

**90.6(5) *Internal inspections for unfired steam pressure vessels operating at more than 15 pounds per square inch.*** The commissioner may require an internal inspection of an unfired steam pressure vessel operating in excess of 15 psi when an inspector observes any deviation from these rules, Iowa Code chapter 89, the construction code, the installation code, or the National Board Inspection Code.

**90.6(6) *Inspection of inaccessible parts.*** When, in the opinion of the inspector, as a result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and thickness measurement of any part of the vessel. Nondestructive examination is acceptable.

**90.6(7) *Imminent danger.*** If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be posted by the labor commissioner. Upon such notice, the owner shall immediately begin the necessary steps to cease operation of the object. The

object shall not be used until the necessary repairs have been completed and the object has passed inspection. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code sections 89.11 and 89.13.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—90.7(89) Fees.**

**90.7(1) *Special inspector certification fee.*** A \$40 fee shall be paid annually to the commissioner to obtain a special inspector certification pursuant to Iowa Code section 89.7, subsection 1.

**90.7(2) *Certificate fee.*** A \$25 fee shall be paid for each one-year certificate, a \$50 fee shall be paid for each two-year certificate, and a \$100 fee shall be paid for each four-year certificate.

**90.7(3) *Fees for inspection.*** An inspection fee for each object inspected by a division inspector shall be paid by the appropriate party as follows:

- a. A \$40 fee for each water heater supply boiler.
- b. An \$80 fee for each boiler, other than a water heater supply boiler, having a working pressure up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.
- c. A \$200 fee for each boiler, other than a water heater supply boiler, having a working pressure in excess of 450 pounds per square inch and generating in excess of 100,000 pounds of steam per hour.
- d. A \$40 fee for each pressure vessel, such as steam stills, tanks, jacket kettles, sterilizers and all other reservoirs having a working pressure of 15 pounds or more per square inch.
- e. In addition to the applicable object's inspection fee, if the division cannot follow normal practice of scheduling inspections in a cost-effective manner due to a request by an owner or user for a customized schedule, travel expenses may be charged at the discretion of the division.
- f. Inspections and code qualification surveys made by the commissioner at the request of a boiler or tank manufacturer shall be charged at a rate set by the commissioner not to exceed the rate currently charged by the various insurance companies for performing a similar service. This charge shall not void the regular fee for inspection or certification when the boiler or tank is installed.
- g. If a boiler or pressure vessel has to be reinspected through no fault of the division, there shall be another inspection fee as specified above. However, there shall be no fee charged for the first scheduled reinspection to verify that ordered repairs have been made.

**90.7(4) *Fees for attempted inspections.*** A \$20 fee shall be charged for each attempt by a division inspector to conduct an inspection which is not completed through no fault of the division.

[ARC 7863B, IAB 6/17/09, effective 7/1/09; ARC 8081B, IAB 8/26/09, effective 9/30/09]

**875—90.8(89) Certificate.** A certificate to operate shall not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. The current certificate to operate or a copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.

**875—90.9(89,252J,261) Special inspector commissions.**

**90.9(1) *Application.*** A person applying for a commission shall complete, sign, and submit to the division with the required fee the form entitled "Application for Boiler and Pressure Vessel Special Inspector Commission" provided by the division. Additionally, the applicant shall submit a copy of the applicant's current National Board work card with each application.

**90.9(2) *Expiration.*** The commission is for no more than one year and ceases when the special inspector leaves employment with the insurance company, or when the commission is suspended or revoked by the labor commissioner. Each commission shall expire no later than June 30 of each year.

**90.9(3) *Changes.*** The special inspector shall notify the division at the time any of the information on the form or attachments changes.

**90.9(4) *Denials.*** The labor commissioner may refuse to issue or renew a special inspector's commission for failure to complete an application package, if the applicant or inspector does not hold a National Board commission, or for any reason listed in subrules 90.9(6) to 90.9(8).

**90.9(5) Investigations.** Investigations shall take place at the time and in the places the labor commissioner directs. The labor commissioner may investigate for any reasonable cause. The labor commissioner may conduct interviews and utilize other reasonable investigatory techniques. Investigations may be conducted without prior notice.

**90.9(6) Reasons for probation.** The labor commissioner may issue a notice of commission probation when an investigation reasonably reveals that the special inspector filed inaccurate reports.

**90.9(7) Reasons for suspension.** The labor commissioner may issue a notice of commission suspension when an investigation reasonably reveals the following:

- a. The special inspector failed to submit and report inspections on a timely basis;
- b. The special inspector abused the special inspector's authority;
- c. The special inspector misrepresented self as a state inspector or a state employee;
- d. The special inspector used commission authority for inappropriate personal gain;
- e. The special inspector failed to follow the division's rules for inspection of object repairs, alterations, construction, installation, or in-service inspection;
- f. The special inspector committed numerous violations as described in subrule 90.9(6);
- g. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- h. The National Board revoked or suspended the special inspector's work card;
- i. The division received a certificate of noncompliance; or
- j. The special inspector failed to take appropriate disciplinary actions against a subordinate special inspector who has committed repeated acts or omissions listed in paragraphs "a" to "h" of this subrule.

**90.9(8) Reasons for revocation.** The labor commissioner may issue a notice of revocation of a special inspector's commission when an investigation reveals any of the following:

- a. The special inspector filed a misleading, false or fraudulent report;
- b. The special inspector failed to perform a required inspection;
- c. The special inspector failed to file a report or filed a report which was not in accordance with the provisions of applicable standards;
- d. The special inspector failed to notify the division in writing of any accident involving an object;
- e. The special inspector committed repeated violations as described in subrule 90.9(7);
- f. The special inspector used fraud or deception to obtain or retain, or to attempt to obtain or retain, a special inspector commission whether for one's self or another;
- g. The special inspector instructed, ordered, or otherwise encouraged a subordinate special inspector to perform the acts or omissions listed in paragraphs "a" to "f" of this subrule;
- h. The National Board revoked or suspended the special inspector's work card; or
- i. The division received a certificate of noncompliance.

**90.9(9) Procedures.** The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

a. *Notice of actions.* The labor commissioner shall serve a notice on the special inspector by certified mail to an address listed on the commission application form or by other service as permitted by Iowa Code chapter 17A. A copy shall be sent to the insurance company employing the special inspector.

b. *Contested cases.* The special inspector shall have 20 days to file a written notice of contest with the labor commissioner. If the special inspector does not file a written contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.

c. *Hearing procedures.* The hearing procedures in 875—Chapter 1 shall govern.

d. *Emergency suspension.* Pursuant to Iowa Code section 17A.18A, if the labor commissioner finds that public health, safety or welfare imperatively requires emergency action because a special inspector failed to comply with applicable laws or rules, the special inspector's commission may be summarily suspended.

e. *Probation period.* A special inspector may be placed on probation for a period not to exceed one year for each incident causing probation.

*f. Suspension period.* A special inspector's commission may be suspended up to five years for each incident causing a suspension.

*g. Revocation period.* A special inspector's commission that has been revoked shall not be reinstated for five years.

*h. Concurrent actions.* Multiple actions may proceed at the same time against any special inspector.

*i. Revoked or suspended commissions.* Within five business days of final agency action revoking or suspending a special inspector commission, the special inspector shall forfeit the special inspector's commission card to the labor commissioner.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—90.10(89) Quality reviews, surveys and audits.**

**90.10(1)** An entity that manufactures or repairs boilers, pressure vessels or related equipment may request quality reviews, surveys or audits from certifying organizations such as the ASME or the National Board. The division is authorized to conduct the quality reviews, surveys or audits. If the division performs the service, the manufacturer or repairer shall pay all applicable expenses.

**90.10(2)** Quality reviews, surveys and audits for certification to the National Board or ASME standards shall be conducted only by a person or organization designated by the labor commissioner. Any person or organization seeking this designation on behalf of the division shall provide documented evidence of training, examination, experience, and certification for the type of reviews, surveys and audits to be performed. The labor commissioner shall have final authority to determine qualifications and designations.

*a. Assessing quality programs.* The division recognizes the ASME and the National Board as qualified designees for conducting quality reviews, surveys and audits that lead to ASME or National Board program certification.

*b. ISO 9000 assessments.* The division recognizes the ASME and the National Board:

(1) To be acceptable ISO 9000 registrars of quality systems for boilers and pressure vessels and the related pressure-technology equipment industry;

(2) To certify auditors and lead auditors to the requirements of ISO 10011-2 1991(E), Annex A; and

(3) To conduct ISO 9000 assessments for the boiler, pressure vessel, and related pressure-technology equipment industry.

**875—90.11(89) Notification of explosion.** Owners and users of covered objects must report any object explosion by calling (515)281-3647 or (515)281-6533. If the explosion occurs during normal division operating hours, notification shall occur before close of business on that day. If the explosion occurs when the division office is closed, the notification shall occur no later than close of business on the next division business day. Division hours are 8 a.m. to 4:30 p.m., Monday through Friday, except state holidays.

**875—90.12(89) Publications available for review.** Pursuant to Iowa Code section 89.5, subsection 3, the standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa.

**875—90.13(89) Notice prior to installation.** Written notice of intent to install objects subject to the jurisdiction of Iowa Code chapter 89 shall be provided to the labor commissioner at least ten days before installation. Written notice shall be accomplished by completing and submitting to the labor commissioner either:

1. The form designated by the labor commissioner, or
2. The National Board's Boiler Installation Report, I-1.

**875—90.14(89) Temporary boilers.** A certificate to operate a temporary boiler shall expire one year from the date of issuance or when the temporary boiler is disconnected. Inspections on temporary boilers

that remain in one location longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3. A temporary boiler that is installed at a different location less than a year since the prior internal inspection of the boiler shall be subjected to a hydrostatic test pursuant to the National Board Inspection Code or to an internal inspection, at the discretion of the inspector.

**875—90.15(89) Conversion of a power boiler to a low-pressure boiler.** The following requirements apply to the conversion of a power boiler to a low-pressure boiler. The owner shall comply with the requirements of subrule 90.15(1) for each conversion. In addition, the owner shall comply with the requirements of subrule 90.15(2) if the converted object will be located outside of a place of public assembly or with the requirements of subrule 90.15(3) if the converted object will be located in a place of public assembly.

**90.15(1) General requirements.**

a. The owner shall provide to the labor commissioner written notice of intent to convert a power boiler to a low-pressure boiler prior to conversion. The required form for a notice of conversion is available at [http://www.iowaworkforce.org/labor/boiler\\_inspection\\_.htm](http://www.iowaworkforce.org/labor/boiler_inspection_.htm). At a minimum the notice shall contain the following:

- (1) Address, uses, and owner of the building where the boiler is located.
- (2) The Iowa identification number assigned to the boiler.
- (3) Name and contact information for the person completing the notice.
- (4) Name and contact information for the contractor or other person planning to perform the conversion.

b. Pressure controls shall not exceed 14 pounds per square inch.

c. All boiler controls shall comply with ASME CSD-1.

d. Safety valves and safety relief valves shall be manufactured in accordance with a national or international standard.

e. One or more spring-pop safety valves meeting the following requirements shall be installed on each steam boiler:

- (1) The valve shall be adjusted and sealed to discharge at a pressure not to exceed 15 psig.
- (2) The valve capacity shall be certified by the National Board.

f. The converted boiler shall be subject to post-conversion external inspection to ensure that the requirements of this rule are met.

**90.15(2) Boilers located outside places of public assembly.** A power boiler that was converted to a low-pressure boiler and that is located outside of a place of public assembly shall not be converted back to a power boiler unless the following requirements are met:

a. The owner shall notify the labor commissioner at least ten days prior to converting the boiler.

b. The owner shall comply with the editions of ASME Section I and CSD-1 in effect at the time of the second conversion.

c. The owner shall comply with the version of 875—Chapter 92 in effect at the time of the second conversion.

**90.15(3) Boilers located in places of public assembly.** A power boiler converted to a low-pressure boiler that is located in a place of public assembly shall comply with 875—Chapter 94.

[ARC 9232B, IAB 11/17/10, effective 12/22/10]

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, 261, and 272D.

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[Filed ARC 9790B (Notice ARC 9511B, IAB 5/18/11), IAB 10/5/11, effective 11/9/11]

<sup>0</sup> Two or more ARCs

<sup>1</sup> Date corrected IAC Supp. 3/26/08



CHAPTER 91  
GENERAL REQUIREMENTS FOR ALL OBJECTS

[Prior to 1/14/98, see 347—Chs 41 to 49]

[Prior to 8/16/06, see 875—Ch 203]

**875—91.1(89) Codes and code cases adopted by reference.**

**91.1(1)** *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2007 with 2008a and 2009b addenda) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2007 with 2008a and 2009b addenda) except for objects that meet one of the following criteria:

- a.* An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b.* An object within the scope of 875—Chapter 95;
- c.* Rescinded IAB 10/5/11, effective 11/9/11.
- d.* A miniature boiler installed before March 31, 1967;
- e.* A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- f.* A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

**91.1(2)** *ASME code cases.* If the manufacturer of an object listed ASME Code Case 2529, 2568, 2571, or 2571-1 on the manufacturer's data report for the object and the object is otherwise in compliance with all applicable provisions, the object is in compliance with these rules.

**91.1(3)** *Inspection code adopted by reference.* The National Board Inspection Code (2007 with 2008, 2009, and 2010 addenda) is adopted by reference, and reinstallations, installations, alterations, and repairs after December 22, 2010, shall comply with it.

**91.1(4)** *Electric code adopted by reference.* The National Electrical Code (2008) is adopted by reference, and reinstallations and installations after January 1, 2010, shall comply with it.

**91.1(5)** *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2007), ASME B31.1a (2008), and ASME B31.1b (2009), and the Building Services Piping Code, ASME B31.9 (2008), are adopted by reference, and reinstallations and installations after April 14, 2010, shall comply with them up to and including the first valve.

**91.1(6)** *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2009) is adopted by reference, and reinstallations and installations after January 1, 2010, shall comply with it.

**91.1(7)** *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2009) are adopted by reference effective January 1, 2010.

**91.1(8)** *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2006), is adopted by reference.

**91.1(9)** *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2009), is adopted by reference.

**91.1(10)** *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2008), is adopted by reference.

**91.1(11)** *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2007), is adopted by reference.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 8590B, IAB 3/10/10, effective 4/14/10; ARC 9232B, IAB 11/17/10, effective 12/22/10; ARC 9790B, IAB 10/5/11, effective 11/9/11]

**875—91.2(89) Safety appliance.** No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection. An object shall not be operated unless all applicable safety appliances are properly functional and operational.

**875—91.3(89) Pressure-reducing valves.** Where pressure-reducing valves are used, one or more relief or safety valves shall be provided on the low-pressure side of the reducing valve when the piping equipment on the low-pressure side does not meet the requirements for the full initial pressure. The

relief or safety valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping fluid from the discharge of relief or safety valves if vented to the atmosphere. The combined discharge capacity of the relief valves or safety valves shall be such that the pressure rating of the lowest pressure piping or equipment shall not be exceeded in case the reducing valve sticks open. If a bypass around the reducing valves is used, a safety valve is required on the low-pressure side and shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without overpressuring the low-pressure side. A pressure gage shall be installed on the low-pressure side of a reducing valve.

**875—91.4(89) Blowoff equipment.** The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees Fahrenheit. If the local jurisdiction has a temperature limit of less than 150 degrees Fahrenheit, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—91.5(89) Location of discharge piping outlets.** The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall be so arranged that there will be no danger of scalding personnel. When the safety valve or temperature and pressure relief valve discharge is piped away from the object to the point of discharge, provision shall be made for properly draining the piping. The size of the discharge piping shall not be reduced from the size of the relief valve.

**875—91.6(89) Pipe, valve, and fitting requirements.**

**91.6(1)** Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules except where permitted in 875—Chapter 95. Dielectric fittings shall be used where dissimilar metals are joined.

**91.6(2) and 91.6(3)** Rescinded IAB 11/18/09, effective 1/1/10.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—91.7(89) Electric steam generator.**

**91.7(1)** A cable at least as large as one of the incoming power lines to the generator shall be permanently fastened to and provide grounding of the generator shell.

**91.7(2)** A suitable screen or guard shall be provided around high-tension bushings and a sign posted warning of high voltage. This screen or guard shall be so located that it will be impossible for anyone working around the generator to accidentally come in contact with the high-tension circuits.

**91.7(3)** All electrically heated boilers shall meet the applicable standards of the construction or installation code.

**875—91.8(89) Alterations, retrofits and repairs to objects.**

**91.8(1) General.** Alterations, retrofits, and repairs shall be made so that the object shall be at least as safe as the original construction. Alterations, retrofits, and repairs shall be done as though new construction and shall comply with the applicable code or codes as adopted in 875—Chapters 90 through 96. A National Board “R” form shall be filed with the division for each alteration, retrofit, or repair.

**91.8(2) Lap seam cracks.** The shell or drum of an object in which a lap seam crack is discovered along a longitudinal, riveted joint shall be immediately discontinued from use. If the object is not more than 15 years of age, a complete new course of the original thickness may be installed at the discretion of the inspector. Patching is prohibited.

**875—91.9(89) Boiler door latches.** A watertube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or are otherwise so constructed as to prevent closed doors from being blown open by pressure on the furnace side. These latches or fastenings shall be of the positive, self-locking type. Friction contacts, latches, and bolts actuated by springs shall not be used. The foregoing requirements for latches or fastenings shall not apply to coal openings on downdraft or similar furnaces.

All other doors, except explosion doors, not used in the firing of the boiler may be provided with bolts or fastenings in lieu of self-locking latching devices. Explosion doors, if used and located in the setting walls within seven feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

**875—91.10(89) Clearance.**

**91.10(1)** All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

**91.10(2)** This subrule applies to installations and reinstallations after September 20, 2006. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or any other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or exit from the object.

**875—91.11(89) Fall protection.** Safe access to all necessary parts of boilers over eight feet tall shall be provided by a runway platform or fall protection system consistent with the requirements below.

**91.11(1) Runway platform.** A steel runway platform in compliance with the criteria of 29 CFR 1910.23 and 1910.27 shall be installed across the tops of objects or at some other convenient level for the purpose of affording safe access. All runways shall have at least two means of exit remotely located from each other.

**91.11(2) Fall protection system.** A fall protection system shall be in compliance with the requirements of 29 CFR 1910.132.

**875—91.12(89) Exit from rooms containing objects.** All rooms exceeding 500 square feet of floor area and containing one or more objects having a fuel-burning capacity of 1 million Btu's shall have two means of exit remotely located from each other on each level.

**875—91.13(89) Air and ventilation.**

**91.13(1) Notice concerning other rules.** The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

**91.13(2) Documentation.** Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

**91.13(3) National combustion air standards.**

*a. Installations and reinstallations.* Installations and reinstallations shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

*b. Existing objects.* An adequate supply of combustion air shall be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed

NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance with this rule. Earlier versions of Iowa's combustion air rule are available for reference at [http://www.iowaworkforce.org/labor/boiler\\_inspection\\_.htm](http://www.iowaworkforce.org/labor/boiler_inspection_.htm).

**91.13(4) Iowa combustion air standard.** A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than shown above.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—91.14(89) Condensate return tank.** Condensate return tanks shall be equipped with at least two vents or a vent and overflow pipe to protect against a loose float plugging a single connection.

**875—91.15(89) Conditions not covered.** Any condition not governed by these rules shall be governed by the construction or installation code.

**875—91.16(89) Nonstandard objects.** Rescinded IAB 3/12/08, effective 4/16/08.

**875—91.17(89) English language and U.S. customary units required.** All documentation supplied for the unit including but not limited to the manufacturers' data report, drawings, parts lists, installation manuals, and operating manuals shall be in English, and all measurements shall be in U.S. customary units. All pressure gages, thermometers and other controls and safety devices shall also be in U.S. customary units.

**875—91.18(89) National Board registration.** Except for cast iron boilers, cast aluminum boilers, and objects governed by 875—Chapter 95, all objects shall be registered with the National Board.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—91.19(89) ASME stamp.** Except for water heaters regulated by 875—Chapter 95, all objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

[ARC 8283B, IAB 11/18/09, effective 1/1/10]

**875—91.20(89) CSD-1 Report.**

**91.20(1)** The installer shall complete a Manufacturer's/Installing Contractor's Report for ASME CSD-1 (CSD-1 Report) for each object except for the following:

- a. An object within the scope of 875—Chapter 95;
- b. An object within the scope of 875—Chapter 96; or
- c. A hot water supply boiler covered by ASME Section IV, Part HLW.
- d. A boiler with a fuel input rating greater than or equal to 12,500,000 Btu per hour, falling within the scope of NFPA 85, Boiler and Combustion Systems Hazards Code.

**91.20(2)** The owner shall make the CSD-1 Report available for inspection.

[ARC 8283B, IAB 11/18/09, effective 1/1/10; ARC 9232B, IAB 11/17/10, effective 12/22/10]

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